

# Public Opinion



"The happiest day of my life as a mother, would be to know that this bill is passed and my son Bobby ha[s] a chance to come home."

Gracie B. Hines  
Detroit, MI

"How can we as a society sentence a minor to life in prison without parole when we as a society say that due to their lack of e[m]otional and mental capability they can't:

1. Enter into a contract.

2. Buy alcohol.

3. Vote . . .

4. Join the military.

5. Work certain jobs."

Tameca Young  
Detroit, MI

"The practice of sentencing children, 17 years of age or younger, without the possibility of parole must stop."

Mario & Deborah Rea,  
Farmington Hills, MI

Mario & Deborah Rea  
34461 Ramble Hills, Farmington Hills, MI 48331

December 18, 2007

Representative Paul Condino  
State of Michigan  
c/o SCL  
P.O. Box 313  
Lake Orion, MI 48362

Re: Second Chance Legislation

Dear Representative Condino:

We whole-heartedly support your proposed Second Chance Legislation. We understand the United States is the only country in the world that incarcerates people for long periods of time and especially for lifers without parole. The practice of sentencing children, 17 years of age or younger, without the possibility of parole must stop.

Many scientists, educators and social workers have documented that many of our youth are slow to develop and mature into adulthood. They lack the ability to think, weigh consequences, make sound decisions and resist group pressures. A perfect example of this is our nephew, Anthony Bonelli. Please consider his situation, as follows, which we're confident mirrors that of many other young adults.

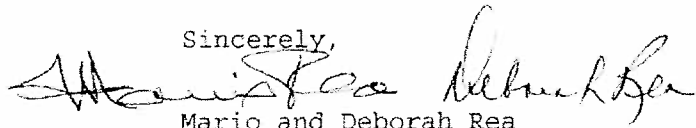
We have watched Anthony grow up over the years from a troubled adolescent to a young and scared 17 year old felon and, throughout his incarceration, we watched him grow and become a responsible and mature 36 year old adult. Anthony has been trouble free and a model prisoner since day one. During his early years, Anthony was on medication. He has outgrown that and today is medication free (at least 15 years). Also he has educated himself very well, reads daily, has obtained his GED and has successfully completed a few college correspondence classes. Anthony has become a very religious person. One that many of his fellow inmates look up to and often seek his religious views and interpretation.

Anthony has often spoken of his crime - his responsibility, guilt, the shame, and the end result on the victim and her family. He is truly sorry and prays for forgiveness every day.

Our entire family understands that Anthony's adjustment to the free world will be difficult for all. We are willing and able to help him adjust. We truly believe that Anthony will be a safe and viable citizen to society.

Thanking you in advance for all your efforts in this matter.

Sincerely,

  
Mario and Deborah Rea

"These bills do not authorize automatic release or resentencing for any former juvenile currently incarcerated. Passage of these bills would simply allow the Parole Board jurisdiction to grant, or deny parole."

Rodger & Penny Pugh,  
South Haven, MI

RODGER & PENNY PUGH  
74703 14th Avenue  
South Haven, Michigan 49090

Date: 1-5-08

Second Chance Legislation  
Attn: Hearing  
P.O. Box 313  
Lake Orion, Michigan 48362

Re: Written Testimony of  
Rodger & Penny Pugh

To those concerned:

I am writing this testimony to express my interests in House Bills 4402-4405 introduced by Representative Paul Condino and scheduled for hearing by the Judiciary Committee. This legislation is long over due and should be supported and passed into law.

\* What Are They?

These bills are intended to end the criminal sentencing of Life Without Parole for anyone under 18 years of age. They also serve to give a second chance to former juveniles who were charged as adults and sentenced to Life Without Parole, Life With Parole, or ten or more calendar years.

\* Who Will They Affect?

1) Children who, in the future, commit an enumerated offense which would otherwise require a Life Without Parole sentence.

2) Anyone who was less than 18 years old when he or she committed a crime for which they were sentenced to serve a minimum term of 10 years or more, Life With Parole, or Life Without Parole, and has served 10 calendar years of his or her sentence.

\* Will The Bills Create A Floodgate Of Release To Those Currently Incarcerated?

These bills do not authorize automatic release or resentencing for any former juvenile currently incarcerated. Passage of these bills would simply allow the Parole Board jurisdiction to grant, or deny parole. While there is no right to parole, strict criteria would be set forth to determine if release should be considered. The criteria are as follows:

(1) The individual's age and level of maturity at the time of offense



- (b) The individuals degree of participation in the offense
- (c) The nature of the offense
- (d) The severity of the offense
- (e) The individuals prior juvenile or criminal history
- (f) The individuals likelihood to commit further offenses
- (g) Any other information considered relevant by the parole board

\* Why Should These Bills Be Passed?

Anyone under 18 years of age in Michigan, unless emancipated, can't vote, serve on a jury, or marry. These privileges are reserved for those who can handle those responsibilities. Despite being prohibited from voting, serving on juries, and marriage, because of the responsibilities inherent therein, juveniles are still held as responsible as an adult when it comes to certain criminal matters.

Recent scientific findings have prompted several states across the country to re-consider legislation which allows juveniles to be treated as adults in criminal matters. Even states like Colorado, that toughened its juvenile laws after the Columbine era, have since reformed its juvenile laws to allow juveniles a second chance. Why is Michigan so far behind the times?

In 2005, the U.S. Supreme Court in Roper v. Simmons, prohibited the death penalty for anyone under the age of 18. The Court considered information provided by the medical community such as brain-imaging scans and scientific studies that conclusively detailed how juveniles are different from adults in three general areas:

- ° Juveniles' lack of maturity and comparatively underdeveloped sense of responsibility often results in impetuous and ill-considered actions and decisions;
- ° Juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure;
- ° The character and personality traits of juveniles are more transitory and less well formed than of an adult

Michigan recognizes that juveniles are fragile and unable to handle the same responsibilities as an adult in almost every aspect of life except for criminal punishments. However, with new medical findings and the knowledge we now have, that clearly shows juveniles to be underdeveloped, it makes sense to begin treating our children as children in all aspects of life, including criminal matters.

My son Mitchell D. Pugh, prison number 195636, has been in prison for 20 years. At 15 years old in 1988, he was waived as a juvenile from the jurisdiction of the Benzie County Probate Court to be treated as an adult in circuit court. During the waiver proceedings a clinical psychiatrist testified, after studying him, that Mitchell had the maturity level of 13 or 14 year old boy. Despite

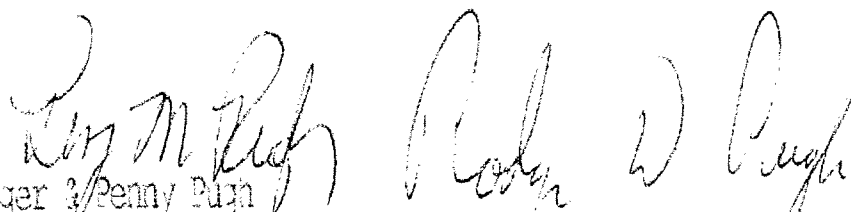
this information, he was convicted of second degree murder as was sentence to Life With Parole. At sentencing the judge informed him that he would again be free one day. However, because the parole board of the Michigan Department of Corrections now treats paroleable Life sentences as nonparoleable Life sentences even juveniles with paroleable Life are spending the rest of their lives in prison. Mitchell has never possessed a driver's license, and never owned a car. He's never seen an actual CD, CD player, cell phone or lap-top computer. The judge that sentenced Mitchell did not intend for him to spend the rest of his life in prison. In 1993 while in prison, Mitchell conducted CPR on another prisoner who was having a heart attack and saved the prisoner's life. How can it be said that Mitchell does not warrant a second chance? Passage of the legislation would change the criteria that the parole board uses to consider Mitchell for parole. I believe juveniles like Mitchell deserve a second chance.

Michigan now ranks second amongst the nation in locking up its children for the rest of their lives and is surpassed only by Pennsylvania. When did our state change from an automotive state to a prison state?

I hope that you will consider the information contained herein, and I earnestly express how long overdue this legislation is.

Thank you.

Sincerely,

  
Rodger & Penny Pugh

"I support these bills  
because when I think  
of the outrageous  
sentences given to  
children it hurts my  
heart."

Delana J. Pittman  
Detroit, MI

“Michigan must no longer be noted for its harsh punishment of its future citizen[s].

We must take the initiative and lead the nation in its effort to rehabilitate troubled children, even after they have committed criminal acts.”

Debra Washington  
Detroit, MI

19455 Prest Detroit, MI 48235

January 3, 2008

Hearing Committee  
State Capitol  
P.O. Box 30013  
Lansing, MI 48909

Ladies and Gentlemen:

I'm writing to show my support of House Bill 4402, 4403, 4404 and 4405; Senate Bill 0006, 0028, 0009 and 0040.

As a concern Citizen of one of the worlds most civilized nation, I am troubled by the fact, that we as a nation/state lock troubled children away for life without a chance for parole, rehabilitation or any opportunity to make amends for their crime (s).

It is important for me to believe that when I vote for an individual to represent me in matters of law and order, that representation is carried out not only with stringent punishment, but also supported by morale character. I totally agree that we must punish, however at the same time we must support the principles that most individual can be rehabilitate, especially if the process is started when a individual is a juvinile

Michigan must no longer be noted for its harsh punishment of its future citizen! We must take the initiative and lead the nation in its effort to rehabilitate troubled children, even after they have committed criminal acts.

Once again, my wish is that my elected representatives support these bills and that I as a citizen of this state support these bills and that my elected representatives vote to past these bills

Thank you, for considering my views on this matter!

Sincerely,



Debra Washington  
Educator

“ . . . it is  
inhumane to  
sentence a  
young person to  
a possible 70+  
years of life  
behind bars.”

Betty Strunk  
LeRoy, MI

December 20, 2007

SCL  
Attn: Hearing  
PO Box 313  
Lake Orion, MI 48362

RE: Senate Bills 0006, 0009, 0028 and 0040

To Whom This May Concern:

My son was sentenced to life without chance of parole over 20 years ago for a crime he committed at the age of 16. That he should be punished severely for his crime goes without saying, but life without parole seems an unjust sentence.

Since incarceration, he has been an exemplary prisoner. He has taken many educational courses and passed them with high marks, always held a job, and helps others whenever possible. I feel he has turned his life around completely in the last 20 years.

During the last few years I have become involved with Second Chance legislation. After reading the histories of some of the children sentenced to life without parole it has become apparent to me that Michigan law as it now stands is unjust. So many of these young people have truly turned their lives around and could be a productive part of society given a chance.

It would be easy for me to quote you statistics and stories of these young people but I am sure you will be receiving a great deal of this type of information. The bottom line – it is inhumane to sentence a young person to a possible 70+ years of life behind bars.

I pray you can find it in your heart to consider the lives these bills would affect. The number of lives may not be large, but they are very important lives.

Sincerely,



Betty Strunk  
PO Box 142 – 300 Cherry Street  
LeRoy, MI 49655  
231-768-4758

"It's no secret science to changing these young people's beliefs and values. It's just about showing them that they matter and we as adults do care about them and their worth. **It is our obligation to reevaluate our system and offer these young offenders the opportunity to show their growth and ability to be productive members of society.** These children are our future!"

David Hudson  
President, National Lifers of  
America – Chapter 1009



# NATIONAL LIFERS OF AMERICA, INC.

## Chapter #1009

David Keith Hudson #A179401

President

17600 Ryan Road

Email: [nationallifersofamerica@yahoo.com](mailto:nationallifersofamerica@yahoo.com)

Detroit, Michigan 48212-1155

Dear Judiciary Committee,

As President of Chapter #1009 of The National Lifers of America Inc., at Ryan Road Facility, I have encountered several Juvenile Offenders in my 24 years of incarceration. It has been a personal mission of mine to be mentor to many of these young men and I have watched their transformation over the years.

Many of these young offenders came into the system without any direction or real role models in their lives. I have observed that many of them had a thirst for knowledge from someone older who may have been down the same or similar path. They began to show greater signs of responsibility at around ages 22 - 25 years old from my experience in working with them. I notice that they realize the errors of their ways and openly discuss their regrets. In many instances, they accept the fact that they really did not know anything when they were teens. Their values and goals in life change and they come to understand the importance of improving on their character.

I know that many of you do not get the opportunity to actual see these young offenders mature into productive adults. But in many cases in spite of their incarceration, they still strive to better themselves to the fullest of their potential. Oftentimes they nurture and develop talents they never knew they even had. I have observed and mentored over 15 such juvenile offenders in my many years of incarceration. Several have went home to prove they can be useful members of society. In the 1990's one particular (drug seller) juvenile offender I mentored got out and returned to prison 3 times on minor violations. He was ironically placed at various facilities in which I was housed in all three instances. I continued to work with him and encouraged him to change his environment as well as his values. It wasn't until he reached the age of 34 that he realized his mission was much greater than prison. He has not been back to prison in several years and has since married, fathered three children and held steady employment. He never had a father figure and his mother gave him to others to raise. Most of the young offenders I have encountered just need someone who genuinely care. Once that firm guidance enter their life and their values system changes, they understand the mistakes of their youth doesn't have to necessarily define their entire lives. A real change takes place.

We as adults, need to take a serious look at how we are throwing our young men and women away at such a young age without giving them a SECOND CHANCE. Through my experience I have learned in many cases all they needed was someone who believes in them. I have been that person and have found a great joy in watching these boys grow 9 into manhood. Many prison officials send troubled youths to me to give them guidance. 0

It's no secret science to changing these young people's beliefs and values. It's just about showing them that they do matter and we as adults do care about them and their worth. It is our obligation to reevaluate our system and offer these young offenders the opportunity to show their growth and ability to be productive members of society. Afterall, we all change from 15 or 17 to 25 or 30. It's time we believe others possess the same ability and attributes of change for the better. These children are our future! Vote to pass the Juvenile House and Senate Bills. ITS TIME TO BE THEIR REASON TO CHANGE!

Thank you,

A handwritten signature in black ink, appearing to read 'DAVID HUDSON', with a stylized, looped flourish at the end.

David Hudson #A179401  
17600 Ryan Road  
Detroit, Michigan 48212-1155

"I have a grandson  
who has been  
incarcerated for 19  
years since the age of  
17. He's a very loving  
person, very smart,  
with morals and  
respect for mankind."

Georgina Rea  
Dearborn Heights, MI

Georgina Rea  
26114 Warrington  
Dearborn Heights, MI 48127

December 21, 2007

Representative Paul Condino  
State of Michigan  
c/o SCL  
P.O. Box 313  
Lake Orion, MI 48362

Re: Second Chance Legislation

Dear Representative Condino:

I'm letting you know that I am in support of the Second Chance Legislation for Juveniles. I have a grandson, Anthony Bonelli, who has been incarcerated for 19 years since the age of 17.

I practically raised and took care of Anthony in his early years. Anthony has always been a great kid. His biological father left when he was a year old. Then his mother remarried and the stepfather abused him. Anthony grew up with mixed emotions and was very troubled. He suffered adolescent emotional problems and was put on medication. He was seen by a psychiatrist and psychologist on a regular basis. Thank God Anthony has outgrown this and hasn't taken any medication for years. It was always known by the medical professionals that he was more immature emotionally for his age. He's a very loving person, very smart, with morals and respect for mankind.

All the 19 years he's been incarcerated, Anthony has never caused any trouble. He completed his GED and also received his certificate for paralegal assistant from the Blackstone School of Law in 1998. Anthony had just turned 17 when he committed this crime. He has accepted full responsibility and has acknowledged with great sorrow the impact on his victim.

I'm 87 years old and I believe Anthony deserves a second chance in life. And if he should get out into a free world, his family and myself would make sure if all possible to help him in any way.

Sincerely,

*Georgina Rea*

Georgina Rea

"I am writing to let you know that I am in support of the Second Chance Legislation for Juveniles. Children are just that – children!"

Mary MacDonald  
Dearborn Heights, MI

Mary MacDonald  
26114 Warrington  
Dearborn Heights, MI 48127

December 21, 2007

Representative Paul Condino  
State of Michigan  
c/o SCL  
P.O. Box 313  
Lake Orion, MI 48362

Re: Second Chance Legislation

Dear Representative Condino:

I'm writing to let you know that I am in support of the Second Chance Legislation for Juveniles. Children are just that - children! As youths, they don't have the ability to make proper decisions or judgments that affect their lives. As they age and mature and have proven that they can be productive in society, they truly deserve a second chance in life. My son, Anthony, Bonelli, fits into this category. I believe he deserves a second chance in life. He, too, is ready for a second chance.

My family and I have maintained close contact for almost 19 years. Ever since Anthony's incarceration, I have visited approximately once a month and we talk on the phone at least once a week. With his spare time, Anthony completed his GED and applied to the Blackstone School of Law and completed the legal assistant and paralegal programs and received his certificate. Anthony stays to himself and hasn't caused any trouble.

He had just turned 17 when he committed this crime. Through the years I've seen significant changes in him including his behavior. He is not the same person. He has talked about the crime and has accepted full responsibility and has acknowledged with great sorrow the impact on his victim. In his younger years, Anthony suffered emotional problems and was on medication and seen by a psychiatrist and psychologist. He also lived at home with a very abusive stepfather. With the grace of God Anthony outgrew this and hasn't taken any medication for years. He has become a loving young man, very smart, with morals and respect for life. I truly believe Anthony deserves a second chance in life. If he should get out to a free world, he has family that love him and will help him.

Thank you for all your efforts in this legislation for juveniles.

Sincerely,  
*Mary MacDonald*  
Mary MacDonald

"For the one hope that we share in all children is that they have the capacity to learn from their mistakes, grow, and change."

Aaron Mitchell

Dear Representatives of the House and Senate:

1-1-2002

I am writing this letter in hopes that, as a one voice, we the people can express our fervent desire to win your support for the passage of the Juvenile lifer bill. For up until now, it is my belief that the people most affected by yesteryears draconian laws have been ignored, to their own detriment.

While I personally am not affected by the enforcement of the laws surrounding juvenile justice, I have a son who is of age to be ensnared by its discretionless use, and that alone is enough to elicit my support in ensuring that such laws are reformed. As those responsible for the passage and perpetuation of such laws you should know that the while the reckless disregard for life as exemplified by the latest group of juvenile offenders is reprehensible, the response of locking them up until they are senior citizens, or in some cases die, is even more egregious. For the one hope that we share in all children is that they have the capacity to learn from their mistakes, grow and change. And to believe that that hope is lost is nothing less than an indictment on us, the parents. For our children are only capable of meeting or exceeding the expectation that we set for them.

And while popular belief is that these laws only affect those of the lower echelons of society, I would dare challenge that thinking by pointing to two of the latest and most infamous teenagers to be faced with the possibility of being tried as adults and being sent to prison for the rest of their lives, the "Thrill Killers". For while in the beginning the pain of any injustice is felt at the most superficial levels, indubitably that pain will eventually be felt by all.

With that being said, we urge you to put forth a concerted effort to reform the juvenile lifer laws and help to ensure that our children, and yes, even your children are given a fair shake in the event that they falter.

Thank you for your time,

Aaron Mitchell





“Richard and I will be married shortly after his release . . . [t]his stability and love will help him become a contributing member of society.”

Theresa Villarreal

December 24, 2007

Theresa Villarreal  
4488 W. 64<sup>th</sup> St.  
Fremont, MI 49412

Second Chance Legislation  
Attn: Hearing  
P.O. Box 313  
Lake Orion, MI 48362

RE: Written testimony for the hearing regarding the Juvenile Bills

To Whom It May Concern:

I am writing on behalf of my fiancé, Richard A. Simmons. He has served twenty-two years in prison. I want you to know Richard's home environment if you decide to give him a second chance at life.

I work for the State of Michigan, in the Department of Human Services. I will be employed in State Service now for nine and one-half years. I own my house and live on twenty acres near Fremont, Michigan. I have just started a goose control business in Grand Rapids, Michigan.

Richard and I have discussed in lengths the challenges he faces as he reenters society. The eight "Second Chance" bills in the Michigan legislative have prompted these conversations in detail. His re-entry will require some extra steps for him to become a fully functional member of society.

He was sixteen years old when he was arrested and incarcerated. He remembers the world through the eyes of a sixteen year old. The world has changed drastically in the past twenty-two years. It will be somewhat of a culture shock at first. I believe the fact that we will be living in the country will help facilitate the transition. Since he is in a stable financial home, he will have the opportunity to get through this transition without any pressure.

Richard has never had a driver's license. He needs to learn how to drive a car so he can work. He will be working for the Goose Control business I own. There is plenty of work to keep him busy and productive.

We have talked about the importance of alcohol and/or drug counseling. There are centers in Fremont and Newaygo. If need be, we can find counseling groups in Muskegon and Grand Rapids. Richard will get the needed support in this area.

He would like to continue his connection with the Native American community. I have friends that are members with the Little River Band of Ottawa Indians. They express their support for Richard among the Native Community. He will have a Native American base to continue his religious beliefs.

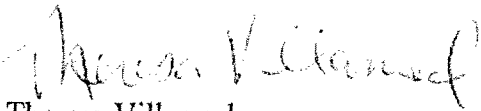
Richard and I will be married shortly after his release. He will have health benefits from my employment. He is assured a stable home life. This stability and love will help him become a contributing member of society.

I would like to now express my view on how I feel about the reason he is incarcerated. It was hard for me at first to accept that I love a man who was responsible for the death of another human being. Mrs. Grams death is a daily part of my life. My heart goes out to her family. It was a very tragic death. I keep them in my daily prayers. I feel it is important for Richard and I to give back to the community in honor of Geraldine Grams. Her life should always be remembered.

Richard is not the sixteen-year-old boy any longer. He is a mature thirty-eight year old man. He understands he is responsible for his actions. When Richard is released he will not pose any threat to society. He has a strong family base for support and believes he needs to give back to society to make amends for his actions twenty-two years ago.

I believe in punishing people for their crimes. I was employed for five years in MDOC. My experience with corrections has open my eyes to the difference of punishment and warehousing people. Society has punished Richard Simmons for his crime. He is ready to be a productive member of that society. The punishment period has served its purpose. Let us not warehouse him any longer. It would be beneficial, not detrimental, to society if you were to give a second chance at life to Richard.

Sincerely,

  
Theresa Villarreal

"Sending youth . . . to adult prisons is the same as sending them to [a] life of hopelessness where they will forever be [a] tax burden on the State. This is also a reflection on the Social & Behavioral Science profession."

Dr. Ruth E. Dennis

**KELLY MILLER SMITH CENTER AGAINST ABUSIVE BEHAVIOR**

**460 TENTH CIRCLE NORTH  
NASHVILLE TN 37203  
(615) 256-1904  
WWW.KMSCAAB.ORG**

**Directors:**

**Alice C. Smith, EdD  
Ruth E. Dennis, Ph.D.**

**Clinical Advisors:**

**Lloyd C. Elam, M.D.  
Edna W. Lockert, Ph.D.**

December 28, 2007

To: Second Chance Legislation  
ATTN: Hearing  
P. O. Box 313  
Lake Orion, MI 48362

*Re: Per the Request of Second Chance Legislation for Juvenile*

This letter is in response to information that was faxed to me (A Hearing In Regards to Juvenile House Bills 4402-4405). I am writing in support of the Juvenile Bills. My research has shown that these children (17-years-olds) are a little different from other children their ages. My counseling experience has shown that most of them can be rehabilitated into productive citizens. I have a personal interest in these bills since I have a grand nephew who is an inmate in the Michigan Prison System. He was 17-years old when he went to prison. His name is Thomas E. Ross (# 184668). I am the sister of Thomas's grandmother. I have known him since he was a little boy. He used to stay with his grandmother. When she died, she asked me to help Thomas. So 12-years ago (1996), I began to get legal help for him.

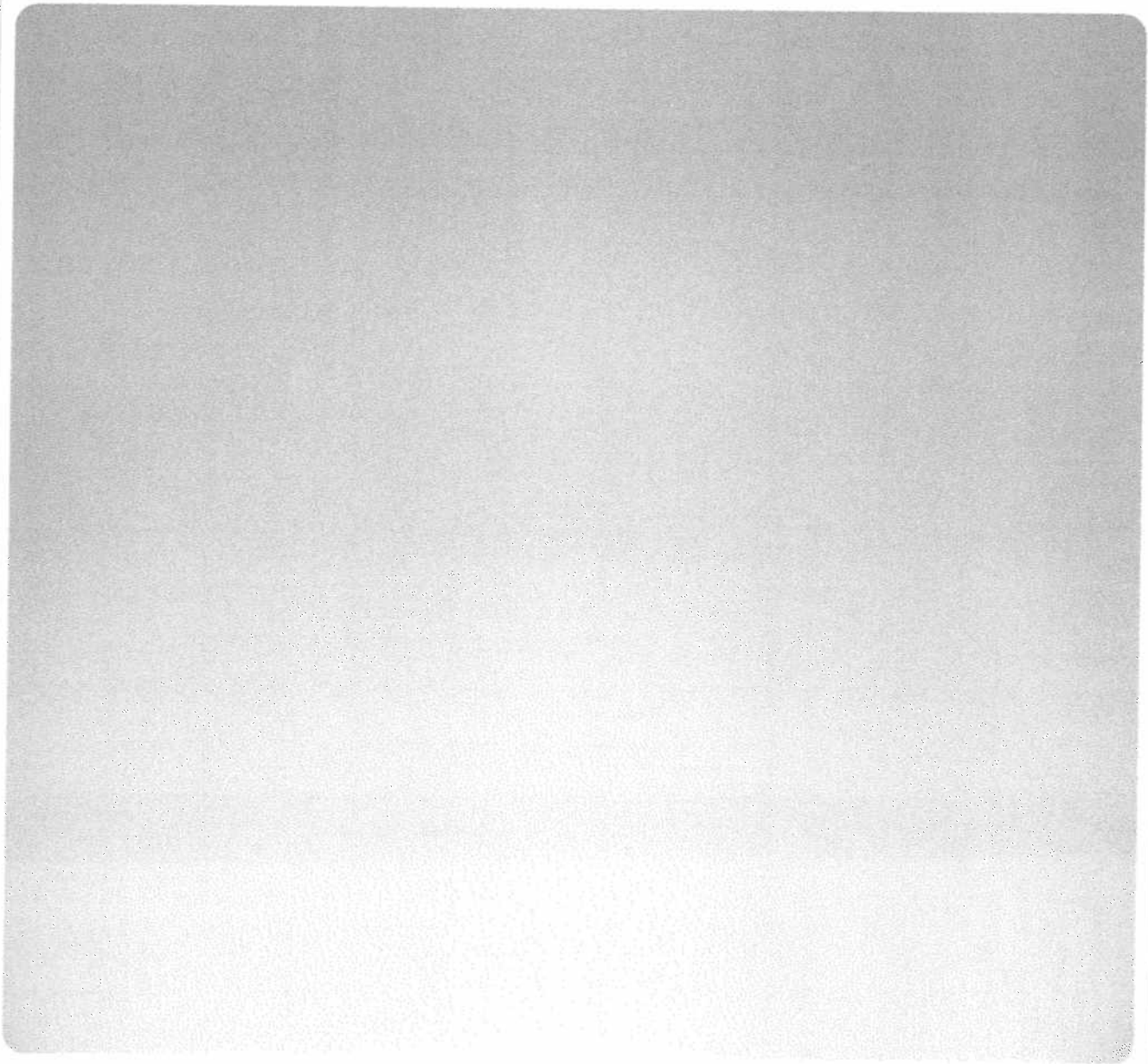
Thomas is a country boy who has never been in trouble before this incident. When he left the country site (Milan, Tennessee), he was sent to Detroit (Michigan) where he got with the wrong crowd. Thomas's case is a typical example for youth like him to get into trouble. He was the kind of youth who could be saved because he had a solid social support system. Sending youth like Thomas E. Ross to adult prisons is the same as sending them to life of hopelessness where they will forever be tax burden on the State. This is also a reflection on the Social and Behavioral Science Profession. Suggesting that they do not have the ability to rehabilitate the children of our society similar to other professionals such as Physicians, Lawyers, etc. The sentencing of (life without chance of parole) seems to be based on emotions and punishment only and not on giving one a chance to be a productive citizen.

I am happy to support this bill in any other way that you feel is appropriate. My contact information remains the same as

Sincerely,



Dr. Ruth E. Dennis  
Co-Director  
dennisre04@yahoo.com  
Tel: 615-227-1684  
Cell: 615-582-2177



# Media





# Juvenile defenders

by News Hits staff

News Hits is edited by Curt Guyette.  
7/12/2006

Just 32 years old, **Amy Black** has already spent half her life in prison. At age 16 she assisted in a robbery committed in Muskegon by her then-boyfriend, who lawyers say killed the victim and then convinced Black to take the rap. Because Michigan law mandates that teens convicted of murder must spend the remainder of their lives in prison, that's the sentence she received.

The Michigan Court of Appeals has repeatedly decided this type of sentencing isn't cruel or unusual, and the state Supreme Court hasn't thought arguments otherwise are worth hearing. But according to a treaty signed by the United States more than a decade ago, sentencing juveniles to life without parole qualifies the state as a human rights violator.

So next week, Ann Arbor-based attorney **Deborah LaBelle**, a member of a national coalition of civil rights groups, is taking the matter to a higher forum — the United Nations Human Rights Committee in Geneva.

"Michigan is particularly egregious when it comes to this law because there are so many kids in prison for felony murder, and the judge has no say," LaBelle says.

Michigan is one of 42 states that apply this type of law, but LaBelle says our bar is one of the lowest — any child 14 and older who's convicted of murder must to be sentenced to life without parole, no matter what the judge may think. LaBelle estimates that this mandatory sentence has been applied to more than 300 minors currently in state prisons.

Black's case is part of a larger review of alleged U.S. human rights abuses the coalition is presenting to the UN next week.

The committee should issue a "final observation" on the case July 28, but LaBelle admits a judgment is unlikely to have much effect here since there are no enforcement mechanisms.

"In some countries, an observation has a great deal of authority," she says. "It can become a scandal. The United States, however, hasn't always taken that position. It's up in the air whether anything happens."

But there's action on another front. After hearing from such activist groups as Second Chance in Rochester, state Rep. **Paul Condino** (D-Southfield) and state Sen. **Liz Brater** (D-Ann Arbor) introduced bills last session that would repeal the sentencing law.

Condino says he's "cautiously optimistic" that the Republican-controlled Legislature will take up the issue after the November elections, especially if the UN committee finds the laws to be an infringement on human rights.

"It would certainly give ammunition to lawmakers who say we can't be the country that stands with the UN against human rights violations and then puts its head in the sand when it comes to our own," he says. "Children shouldn't get a free get-out-of-jail card, but a judge should be able to do a case-by-base review to see whether there's any chance for rehabilitation."

# State is No. 3 in life terms for kids

**BY BEN SCHMITT**  
FREE PRESS STAFF WRITER

October 12, 2005

Bobby Hines' mom doesn't dispute her boy was there when a friend of his killed a Detroit man in 1989, and she doesn't deny her 15-year-old son deserved prison time. But not life with no hope of parole.

"I think children should be given a second chance," said Gracie Hines, 57. "They can be rehabilitated, at least most of them can."

Bobby Hines, 31, was sentenced to life without parole before he was old enough to vote -- and a lot of prisoners in Michigan are in the same situation. According to a national study set to be released today by Amnesty International and Human Rights Watch, at least 306 state prison inmates fit that profile, giving Michigan more lifers who started their terms before age 18 than any state except for Pennsylvania (332) and Louisiana (317).

Michigan ranks high on the list for a number of reasons. First, it's one of only 11 states that considers offenders age 17 and older as adults.

Second, Michigan prosecutors can opt to charge any juvenile 14 years of age or older as an adult without any appearances in juvenile court.

Finally, the state's mandatory sentence of life without parole for anyone convicted of first-degree murder plays a role, meaning that prosecutors who go after someone as an adult and win a conviction essentially guarantee he or she will remain in prison for life. The judge has no flexibility in sentencing.

"Once a youth offender is convicted of a serious crime such as first-degree murder in states like Michigan, there's no turning back," said Alison Parker, a researcher for Human Rights Watch in New York who authored the study. "The judge's hands are tied."

## Eliminating life without parole

Parker's report shows that juvenile crime skyrocketed in the early- to mid-1990s. In response, states passed stricter laws against juveniles committing serious crimes.

### Life without parole

The following Michigan counties have the highest number of offenders who were under the age of 18 when they were sentenced to life without parole (through 2003):

1. Wayne...123

2. Oakland...40

3. Genesee...25

4. Saginaw...20

5. Kent...18

6. Berrien...10

7. Calhoun...8

(tie) Macomb...8

9. Muskegon...7

10. Washtenaw...6

(tie) Kalamazoo...6

**Source: American Civil Liberties Union in Michigan**

## **The only way out**

Ingham County Prosecutor Stuart Dunnings III says the organizations that authored the study have it all wrong. In fact, he said, they're not even asking the right question.

"They are asking why do we have 300 kids serving life without parole when they should be asking, why do we have 300 kids in Michigan who are murderers and how did they get that way?" Dunnings said. "They are asking the wrong question."

Dunnings, a past president of the Prosecuting Attorneys Association of Michigan, said a review process is in place for inmates sentenced to life without parole: The governor can commute life sentences if he or she chooses to do so.

State Rep. William VanRegenmorter, R-Georgetown Township, agreed.

"If anyone has a strong feeling that justice is improved by changing a given sentence, we have the mechanism in place," said VanRegenmorter, who was a state senator on the Senate Judiciary Committee when it helped write several tougher juvenile justice laws in the mid-1990s. "I think that's enough."

Gov. Jennifer Granholm has commuted five sentences, all for medical reasons, since she took office in 2003, a spokeswoman said.

Dunnings pointed out that many of the people sentenced as teens to life sentences claim not to be central figures in the crimes for which they were convicted.

"In those accomplice-type cases, I would bet you dimes against doughnuts that those kids got a plea offer and turned it down," Dunnings said. "They wanted to roll the dice."

## **Family holds out hope**

That was the case with Bobby Hines. Prosecutors offered him a plea deal for second-degree murder, which carries a life sentence, too -- only it has the possibility of parole. He and his family rejected it, believing that because he wasn't the shooter, he would be acquitted.

Even life with parole seemed too long to them.

"One of the things I say of those prosecutors is that they offered a lot of the same things we are asking for now," LaBelle said. "It's not like they thought they were so dangerous that they couldn't offer them this very opportunity at parole."

The 16-year-old who pulled the trigger pleaded guilty to second-degree murder. Bobby Hines didn't. Because he was charged as an adult and convicted of first-degree murder by a Wayne County jury, his sentence was predetermined: He will spend the rest of his life in prison unless the governor commutes his sentence.

August 5, 2006

## Should teens get life prison terms?

Mich. slammed for letting youths spend lives behind bars for murder; push is on to change its practice.

**Ronald J. Hansen / The Detroit News**

Like many 15-year-olds, Bobby Hines of Detroit followed his friends, even when they ran headlong toward trouble. Upset that someone took his friend's coat, Derius Woolfolk, then 16, grabbed a rifle and Hines went with him. The results: Woolfolk shot and killed one man and wounded another, and both he and Hines are serving life terms. Michigan's juvenile justice system allows teens to spend the rest of their lives behind bars for murder, even if they didn't pull the trigger, prompting a move in Michigan and across the nation to abolish life sentences without parole for those younger than 18.

Ann Arbor lawyer Deborah LaBelle is urging the change in the wake of her report on the state's system, which was noted by a United Nations human rights committee.

The U.N. committee condemned the U.S. practice of sentencing juveniles to life without parole, based largely on LaBelle's report.

Though 41 other states offer similar punishment, such sentencing is forbidden in most countries.

"The grown person I am now is having to pay for what the child in me did," said Hines, now 32, in a handwritten note about the May 1989 slaying.

"I have to constantly go through life knowing that being in this living hell is the destiny of my life." Witnesses said Hines urged Woolfolk to "let him have it."

Woolfolk killed James Warren and wounded another man who was running away. Woolfolk, who was 16 at the time of the May 1989 slaying, is now serving life in prison.

So is Hines.

Buoyed by a U.S. Supreme Court ruling last year that said juveniles couldn't be executed for their crimes, LaBelle is leading a push in Michigan and across the country to abolish life sentences without parole for those younger than 18. According to her analysis, called "Second Chances," Michigan has at least 146 teens who were sentenced to life in prison when they were 16 or younger. There are more than 150 sentenced to life for murder when they were 17 and at least 2,200 juveniles sentenced to life without parole nationwide.

"These are children who often come from dysfunctional homes and communities. They don't have the option to leave," said LaBelle, who has examined the juvenile justice system for a state commission.

In Michigan, prosecutors and a judge can agree to try a suspect as a juvenile, as in the case of Nathaniel Abraham, who was 11 when he fired a sniper shot that killed an 18-year-old man in Pontiac. Because he was tried as a juvenile, he is due to be released in January when he turns 21.

Those juveniles tried as adults, however, face a different fate and can remain in prison for life.

Last month federal authorities defended juvenile sentencing during a review of U.S. compliance with an international treaty it signed in 1992. Authorities said the states set their own punishment and that it is reserved for "hardened criminals who had committed gravely serious crimes."

Michigan lawmakers have legislation pending in Lansing that would create more flexibility for punishing juvenile offenders, though they haven't received much interest.

Sen. Alan Cropsey, R-DeWitt, who chairs the Senate Judiciary Committee, says in each case judges and prosecutors weighed the child's background and their crimes before agreeing they were too dangerous to ever release. Under the traditional juvenile system, youthful offenders would have to be released by 21, he said.

"This is not a social work system for this poor misguided soul. That poor misguided soul killed a person -- killed them

Some juvenile offenders received longer sentences than adults who were involved in the same murders, LaBelle said.

The state has at least two prisoners serving life sentences for crimes committed at 14. Lawyers for some juvenile defendants were later disbarred for incompetence, she said.

One of the glaring problems, LaBelle said, is that felony murder, a crime that can apply to those with secondary roles in a homicide, carries only one punishment: life without parole.

"The system fails to look at any of these cases individually," she said. "There is no discretion."

On occasion, even relatives of murder victims say the system needs to be more flexible.

Over 25 years, Tammi Smith of Hopkins has seen the anger she felt when her half brother was brutally murdered with a hammer give way to a belief in redemption and forgiveness.

She has met and corresponded with David Anthony Samel and his twin brother, Michael, who were 17 when they killed Robert Dale Sellon at a pool hall in Grand Rapids. At the time of the 1981 crime, both boys lived with their abusive, alcoholic father and both quickly sank into drug use and dropped out of high school.

"It bothers me because it's like one screwup and you're done," said Smith, a born-again Christian who said her faith has led her to re-examine her feelings. "I'm not saying the kids are not responsible for what they did, but kids don't learn things unless they are properly taught."

LaBelle is also troubled by the different outcomes for the Samels.

Though each boy was equally implicated, Michael pleaded guilty to second-degree murder and could be released on parole in 2009. David, maintaining he didn't have a lead role in the slaying, went to trial and was convicted of first-degree murder and is sentenced to life without parole.

He can expect the same fate as Allen Roy Smith, who had a stormy relationship growing up in Brooklyn, Mich., with his mother and stepfather.

On Dec. 2, 1953, the 16-year-old Smith shot and killed an elderly couple in their cabin in Newberry. A psychologist later determined Smith took out his anger at home on a couple he actually liked, court records show. Smith said he pleaded guilty to the murders because his lawyer told him he would get out in 10 years. Today he is 69 and still behind bars.

## Youth Advocates Fight to End Life-Without-Parole Sentences

David Milne

**With more than 2,000 teens serving sentences of life in prison without the possibility of parole, a movement is building to get the country off of the very small list of nations allowing such a harsh sentence for its youth.**

Encouraged by the U.S. Supreme Court ruling last year declaring the juvenile death penalty unconstitutional, some states are moving to abolish life sentences without parole (LWOP) for people who committed crimes when they were under the age of 18.

Ann Arbor lawyer Deborah LaBelle is urging the change in the wake of her report on Michigan's juvenile justice system titled "Second Chances," published in October 2005.

Last month the U.N. Human Rights Committee issued a strongly worded critique of the U.S. government's human rights record and condemned the U.S. practice of sentencing juveniles to life without parole, based largely on LaBelle's report.

Forty-one states allow juvenile LWOP sentencing, although it is forbidden in most countries under the Convention of the Rights of the Child signed by all nations except the United States and Somalia. Human Rights Advocates, Human Rights Watch, and Amnesty International report that fewer than a dozen teens are serving this sentence in the rest of the world.

At least 2,225 individuals are serving LWOP sentences in U.S. prisons for crimes committed before they were age 18. A joint report by Amnesty International and Human Rights Watch stated that while the number of serious juvenile crimes are decreasing, the percentage of youth receiving LWOP sentences is increasing.

Michigan has at least 146 teens who were sentenced to life in prison when they were 16 or younger, according to LaBelle's report. More than 150 were sentenced to life for murder when they were 17.

LaBelle told *Psychiatric News* that when examining the juvenile-justice system for a state commission, she found that these children often come from dysfunctional homes and communities and don't have the option to leave.

The Human Rights Working Group of the American Civil Liberties Union has a petition pending in the Inter-American Commission saying that the juvenile life issue violates the

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International Code of Political and Civil Rights, as well as the Declaration of the Rights of Man and the Convention of the Rights of the Child.

At a meeting scheduled for this month, the American Bar Association will consider whether to draft a resolution supporting the abolition of LWOP sentences for juveniles.

Last month the U.S. State Department defended juvenile sentencing during a review of U.S. compliance with an international treaty it signed in 1992. Authorities said the states set their own punishment and that LWOP is reserved for "hardened criminals who had committed gravely serious crimes."

But LaBelle said Michigan's cases reveal an uneven system where some teens are treated more harshly than others.

Some juvenile offenders received longer sentences than adults who were involved in the same murders, LaBelle said.

One of the glaring problems, LaBelle said, is that felony murder, a crime that can apply to those with secondary roles in a homicide, carries only one punishment: life without parole. As a result, teens can spend the rest of their lives behind bars for murder, even if they didn't pull the trigger.

Human Rights Watch has asked the United States to ensure that no juvenile offender receives the sentence. This recommendation was issued against a backdrop of alleged misstatements to the committee by the U.S. State Department regarding the extent to which children in the United States are subjected to this sentence.

The Bush administration claimed in its report on U.S. compliance with the International Covenant on Civil and Political Rights and in response to questions by the United Nations Human Rights Committee that only the worst child offenders are sentenced to life without parole, and only in exceptional circumstances, but that is simply not true, said Alison Parker, acting director of the U.S. Program at Human Rights Watch. The U.N. Committee has confirmed that the United States is violating its legal obligations whenever a child offender is given life without parole.

The American Academy of Child and Adolescent Psychiatry (AACAP) has "no formal position on the ruling of LWOP for juveniles, but I feel it is unwarranted," William Arroyo, M.D., told *Psychiatric News*. Arroyo is co-chair of AACAP's Juvenile Justice Reform Committee and medical director of Children's Services at the Keck School of Medicine at the University of Southern California. "It is clear from recent neurobiological research that the brain does not mature until a person is in his or her 20s," he said. "Parts of the brain responsible for reasoning, abstraction, and impulse control in juveniles are still immature, so that it doesn't make sense that some youths should be punished so severely."

APA does not have an official position on this issue.



# Juveniles Do Hard Time for Harsh Crimes

December 8, 2007 - 12:30pm

By ADAM GELLER  
AP National Writer

DETROIT (AP) - It began as a feud only a child could invent \_ teenage chest-thumping over who had the right to sneak across a golf course after dark and scoop lost balls out of a pond. But by the time it ended in the pre-dawn blackness of a long-ago June morning, that juvenile bravado had exploded into a crime whose horror defied adult comprehension.

Buried inside the charred skeleton of a Saginaw home, three children lay dead. They perished at the hands of two local teens who hurled pop-bottle firebombs through the windows so one could settle a petty score.

For taking three innocent lives, a judge decided, Michael Lee Perry had to pay. Perry was 16 at the time of the fire, but for an adult crime he'd have to do adult time and spend the rest of his life in prison, without any chance for parole.

That was 17 years ago. And today, when Perry rises and offers his hand to a visitor allowed inside the razor wire-topped brick of Detroit's Mound Correctional Facility, it is clear that prisoner No. 217645's claim on childhood has long since lapsed.

He stands 6-foot-2, graying at the temples, his hairline receding. No question, Perry is a man now.

He appeals, though, for the understanding he says the boy he once was still deserves.

"I was wrong. I took people's lives who didn't even have a chance to grow up and experience life. But, I mean, I didn't even experience life myself," says Perry, now 34. "I'm not saying a child should go unpunished. ... (But) it's like I'm just abandoned, discarded, left for nothing."

Perry is far from alone.

At least 2,381 people are serving life without parole in U.S. prisons for crimes when they were 17 or younger, the vast majority for taking another life.

Ever since the U.S. Supreme Court ruled in 2005 that sentencing juveniles to death is unconstitutional, advocates have been nudging lawmakers, courts and the public to go

one step further and re-examine the life sentences meted out to young people convicted of the most serious crimes.

If we believe that juveniles are intrinsically different from adults \_ that their judgment is lacking, that they are capable of learning from mistakes \_ then how can we justify locking them away forever?

It is a difficult question and a painful one to contemplate. Some of the crimes are horrific. The age of the perpetrators \_ and often of their victims \_ is enough to make any parent say a quiet prayer.

Then there is the fact that laws often give courts little choice in weighing punishment. Even when some discretion is allowed, it can distort the choices. When the time came to sentence Michael Perry, state law forced a judge to decide between widely disparate options. He could treat Perry as a juvenile and see him released by 21. Or he could send him away forever.

"The only conclusion that I can reach," Judge Leopold Borrello told two grieving families gathered in the courtroom that day, "is that the law deprives me of doing justice."

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Quantel Lotts was 14. He and his brothers were at a friend's house in St. Francois County, Missouri, and Quantel and his stepbrother Michael Barton started fighting. Quantel chased Michael \_ who was three years older \_ with a bow and arrow before an adult stepped in. Not long after, while they snacked, one of the younger children noticed Quantel holding a knife and reported him to Michael.

"Let's take this outside," Michael told Quantel. In the yard, their shoving match ended in Michael's death. Found guilty, he was sentenced to life without parole. Today, speaking by telephone from prison, Quantel Lotts will not talk about what happened that day. But he remembers clearly where it left him.

"They say my stepbrother's dead and they say I killed him," he says. "When I first got locked up, I spent the first six months crying to myself every night."

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Americans believe in stiff punishment. But U.S. courts long applied a more forgiving standard when the accused was a juvenile.

Then in the late 1980s and early 1990s, alarm over violent youth crime set off widespread fears. In state after state, lawmakers and prosecutors decided to get tough.

Many states began requiring that juveniles accused of first-degree murder be tried as adults. To show they meant business, lawmakers mandated stiffer punishments.

Today, inmates in 39 states and a federal prison are serving life without parole for crimes they committed as youngsters. Five states — Pennsylvania, Louisiana, Michigan, Florida and California — account for two-thirds of the cases documented by Human Rights Watch and Amnesty International.

Tougher laws were applauded by prosecutors and victims' advocates as necessary tools to fight crime and protect the public.

"If they can do these kinds of crimes, then they've got to face the punishment," says Maggie Elvey, a California activist whose husband, Ross, was beaten to death in 1993 by two teens, ages 15 and 16.

"My theory is when Ross can walk the face of the Earth again, that's when you can get out," Elvey says.

But the sharp rise in juvenile violence that the new laws were meant to fight never came. Now some question whether the tougher approach went too far.

"There are probably many cases where I'd say, 'Yes, lock them up and throw away the key,'" says Linda J. Collier, a dean at Delaware County Community College in Media, Pa., among those who called for stiffer juvenile sentences.

"But there are probably other cases where that kid, if you look into his eyes, if you look into his soul, you can say yes, they can be rehabilitated."

But how to do that? Should life without parole be eliminated for all juvenile offenders or only for some of them? What should the alternative be?

The questions get harder when they are applied to real lives rather than abstracts.

Addolfo Davis was only 14, but he'd already known plenty of trouble — the child of a Chicago crack addict, he'd been arrested for shoplifting, robbery and other offenses starting when he was 10. Then, in October 1990, Davis joined two other teens — one 16, the other 18 — in something far worse.

The trio, all carrying guns, headed to the third-floor apartment of a rival drug dealer, and when it opened, pushed inside.

One of the men inside knocked Davis' gun away and ran. But Davis' companions began shooting, killing two and wounding two others.

After he was arrested, Davis was transferred to adult court, in part because of his prior record. When he was convicted of murder — found accountable although he hadn't fired a shot — the law made it clear he would be sentenced to life. Today, he is 31.

"Gun towers, bars, walls, lock downs, hand cuffs, visits, letters, collect calls," he wrote for an assignment in a prison ministry class two years ago. "This is all I know."

Sentencing juveniles to life raises a host of tough questions. Colorado tangled with them last year when lawmakers made juvenile lifers eligible for parole after 40 years and the governor established a special clemency board to review cases.

Now, Michigan could be the next to face those questions.

At least that is the hope of Deborah LaBelle, an Ann Arbor attorney. She lambastes a legal system that deems people too immature to drink alcohol or serve on juries, but says they are old enough to be held accountable as adults for their crimes. Worse, she says, mandating life sentences forces courts to treat all youth convicted of murder the same.

"Aren't there kids who have done horrible things? Yes. But then you have to grant that aren't there kids who didn't, who just made a horrible decision," she says. "Shouldn't we individualize them? Aren't they at least entitled to that?" LaBelle's files are filled with dozens of such stories.

They are people like Trevor Brownlee, who admonishes himself \_ 18 years too late \_ for his days as a teen drug dealer. In 1989, when Brownlee was 15, he and two friends set out for a party. Gangs in Ypsilanti were feuding. Underneath his trenchcoat, Brownlee carried a sawed-off shotgun.

Soon Brownlee's group ran into teens they'd never seen before. They traded words over turf. The confrontation seemed to fizzle. Then, Brownlee's friend shouted an alarm: Was one of the out-of-towners reaching for a gun? Brownlee didn't wait to find out. He opened fire, killing one teen, paralyzing another from the waist down.

Brownlee, serving life at Riverside Correctional Facility in Ionia, has plenty of time to think about that night. He's troubled about more than that he killed someone. It's that, in his words, the crime was "about nothing."

"It wasn't until I was 25 that I actually sat down and realized the full extent of what I did," says Brownlee, now 33. "Man, I was an idiot."

Brownlee and others like him hope Michigan lawmakers see that they are worthy of a second chance.

But backers of life without parole, like Saginaw Prosecutor Michael Thomas, sharply disagree. Years of violent juvenile crime have defiled his hometown, Thomas says, making clear the need to protect the public and see that justice is done.

"I think most people sitting on a jury, most people with houses in your neighborhood, pretty much understand that they (juveniles accused of heinous crimes) are the worst of the worst and that the penalty does fit the crime," he says.

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On the day Michael Lee Perry was sentenced for the Saginaw firebombing, the judge sought a middle ground that did not exist.

Instead, he sentenced Perry to life, while recommending that after 20 years a Michigan governor consider him for a reprieve, commutation or pardon.

Perry is already preparing his petition for freedom.

"When I go see Michael he gives me hope that everything will be better when he comes home," his mother, Maria Chavira, says.

But Perry recognizes that political calculus makes exoneration rare. Even as he reassures his mother, he tries to make peace with the possibility that will never happen.

"If I do (spend) my life within these walls and fences, I'll accept my punishment," he wrote the judge two years ago, in a letter intended for the family of his victims, "and do it in the memory of the pain, suffering, heartaches and deaths I helped cause."

"I will never forget."

## Juvenile lifer law needs fair hearing

August 15, 2006

Michigan's notorious juvenile lifer law has rightly drawn fire from human rights groups worldwide, including Amnesty International and Human Rights Watch. Last month, a coalition of 142 U.S.-based groups even declared that the state's policy, which permits mandatory life sentences for certain teen-age offenders, violates international treaties.

At the very least the law contradicts science, common sense, legal tradition and public opinion. A bill sponsored by state Sen. Liz Brater, D-Ann Arbor, would fix the worst abuses of the law, but it has been locked up all year in the Senate Judiciary Committee. Committee Chairman Alan Cropsey, R-De Witt, told the Free Press last week that, while he had "dozens of red flags" about Brater's bill, he was open to giving it a public hearing. Cropsey should do so now while there's still time for legislators to act this term.

In Michigan, more than 300 juveniles have been sentenced to life without parole — one of the highest such numbers in the nation. Brater's bill would not release any of them. It would simply give them a chance at parole after they had served at least 15 years.

That's a reasonable change, consistent with brain-imaging research that shows — surprise — that teenagers are more impulsive and unstable than adults, even without the abuse and neglect that many young offenders have faced. Juveniles don't have the same legal rights and responsibilities as adults because they lack the maturity and judgment to handle them. Nor should they generally pay the same consequences for crimes. That's partly why a conservative U.S. Supreme Court threw out the death penalty for juveniles. A recent Wayne State University survey suggested that only 5% of state residents support the current Michigan law.

Brater's bill offers the best hope of bringing Michigan's juvenile law into the 21st Century. Cropsey should allow it a fair hearing.

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October 5, 2005

## **Serving Life, With No Chance of Redemption**

By ADAM LIPTAK

LIVINGSTON, Tex. - Minutes after the United States Supreme Court threw out the juvenile death penalty in March, word reached death row here, setting off a pandemonium of banging, yelling and whoops of joy among many of the 28 men whose lives were spared by the decision.

But the news devastated Randy Arroyo, who had faced execution for helping kidnap and kill an Air Force officer while stealing his car for parts.

Mr. Arroyo realized he had just become a lifer, and that was the last thing he wanted. Lifers, he said, exist in a world without hope. "I wish I still had that death sentence," he said. "I believe my chances have gone down the drain. No one will ever look at my case."

Mr. Arroyo has a point. People on death row are provided with free lawyers to pursue their cases in federal court long after their convictions have been affirmed; lifers are not. The pro bono lawyers who work so aggressively to exonerate or spare the lives of death row inmates are not interested in the cases of people merely serving life terms. And appeals courts scrutinize death penalty cases much more closely than others.

Mr. Arroyo will become eligible for parole in 2037, when he is 57. But he doubts he will ever get out.

"This is hopeless," he said.

Scores of lifers, in interviews at 10 prisons in six states, echoed Mr. Arroyo's despondency. They have, they said, nothing to look forward to and no way to redeem themselves.

More than one in four lifers will never even see a parole board. The boards that the remaining lifers encounter have often been refashioned to include representatives of crime victims and elected officials not receptive to pleas for lenience.

And the nation's governors, concerned about the possibility of repeated offenses by paroled criminals and the public outcry that often follows, have all but stopped commuting life sentences.

In at least 22 states, lifers have virtually no way out. Fourteen states reported that they released fewer than 10 in 2001, the latest year for which national data is available, and the other eight states said fewer than two dozen each.

The number of lifers thus continues to swell in prisons across the nation, even as the number of new life sentences has dropped in recent years along with the crime rate.

According to a New York Times survey, the number of lifers has almost doubled in the last decade, to 132,000. Historical data on juvenile offenders is incomplete. But among the 18 states that can provide data from 1993, the juvenile lifer population rose 74 percent in the next decade.

Prosecutors and representatives of crime victims applaud the trend. The prisoners, they say, are paying the minimum fit punishment for their terrible crimes.

But even supporters of the death penalty wonder about this state of affairs.

"Life without parole is a very strange sentence when you think about it," said Robert Blecker, a professor at New York Law School. "The punishment seems either too much or too little. If a sadistic or extraordinarily cold, callous killer deserves to die, then why not kill him? But if we are going to keep the killer alive when we could otherwise execute him, why strip him of all hope?"

Burl Cain, the warden of the Louisiana State Penitentiary in Angola, which houses thousands of lifers, said older prisoners who have served many years should be able to make their cases to a parole or pardon board that has an open mind. Because all life sentences in Louisiana are without the possibility of parole, only a governor's pardon can bring about a release.

The prospect of a meaningful hearing would, Mr. Cain said, provide lifers with a taste of hope.

"Prison should be a place for predators and not dying old men," Mr. Cain said. "Some people should die in prison, but everyone should get a hearing."

### **Television and Boredom**

In interviews, lifers said they tried to resign themselves to spending down their days entirely behind bars. But the prison programs that once kept them busy in an effort at training and rehabilitation have largely been dismantled, replaced by television and boredom.

The lot of the lifer may be said to be cruel or pampered, depending on one's perspective. "It's a bleak imprisonment," said W. Scott Thornsley, a former corrections official in Pennsylvania.

"When you take away someone's hope, you take away a lot."



It was not always that way, said Steven Benjamin, a 56-year-old Michigan lifer.

"The whole perception of incarceration changed in the 1970's," said Mr. Benjamin, who is serving a sentence of life without parole for participating in a robbery in 1973 in which an accomplice killed a man. "They're dismantling all meaningful programs. We just write people off without a second thought."

As the years pass and the lifers grow old, they sometimes tend to dying prisoners and then die themselves. Some are buried in cemeteries on prison grounds by other lifers, who will then go on to repeat the cycle.

"They're never going to leave here," said Mr. Cain, the warden at Angola, of inmates he looks after. "They're going to die here."

Some defendants view the prospect of life in prison as so bleak and the possibility of exoneration for lifers as so remote that they are willing to roll the dice with death.

In Alabama, six men convicted of capital crimes have asked their juries for death rather than life sentences, said Bryan Stevenson, director of the Equal Justice Initiative of Alabama.

The idea seems to have its roots in the experience of Walter McMillian, who was convicted of capital murder by an Alabama jury in 1988. The jury recommended that he be sentenced to life without parole, but Judge Robert E. Lee Key Jr. overrode that recommendation and sentenced Mr. McMillian to death by electrocution.

Because of that death sentence, lawyers opposed to capital punishment took up Mr. McMillian's case. Through their efforts, Mr. McMillian was exonerated five years later after prosecutors conceded that they had relied on perjured testimony. "Had there not been that decision to override," said Mr. Stevenson, one of Mr. McMillian's lawyers, "he would be in prison today."

Other Alabama defendants have learned a lesson from Mr. McMillian.

"We have a lot of death penalty cases where, perversely, the client at the penalty phase asks to be sentenced to death," Mr. Stevenson said.

Judges and other legal experts say that risky decision could be a wise one for defendants who are innocent or who were convicted under flawed procedures. "Capital cases get an automatic royal treatment, whereas noncapital cases are fairly routine," said Alex Kozinski, a federal appeals court judge in California.

David R. Dow, one of Mr. Arroyo's lawyers and the director of the Texas Innocence Network, said groups like his did not have the resources to represent lifers.

"If we got Arroyo's case as a non-death-penalty case," Mr. Dow said, "we would have terminated it in the very early stages of investigation."

Mr. Arroyo, who is 25 but still has something of the pimply, squirmy adolescent about him, said he already detected a certain quiet descending on his case.

"You don't hear too many religious groups or foreign governments or nonprofit organizations fighting for lifers," he said.

Gov. Rick Perry of Texas signed a bill in June adding life without parole as an option for juries to consider in capital cases. Opponents of the death penalty have embraced and promoted this alternative, pointing to studies that show that support for the death penalty dropped drastically among jurors and the public when life without parole, or LWOP, was an alternative.

"Life without parole has been absolutely crucial to whatever progress has been made against the death penalty," said James Liebman, a law professor at Columbia. "The drop in death sentences" - from 320 in 1996 to 125 last year - "would not have happened without LWOP."

But some questioned the strategy.

"I have a problem with death penalty abolitionists," said Paul Wright, the editor of Prison Legal News and a former lifer, released in Washington State in 2003 after serving 17 years for killing a man in a robbery attempt. "They're positing life without parole as an option, but it's a death sentence by incarceration. You're trading a slow form of death for a faster one."

Mr. Arroyo shares that view.

"I'd roll the dice with death and stay on death row," he said. "Really, death has never been my fear. What do people believe? That being alive in prison is a good life? This is slavery."

### **Murder Follows a Kidnapping**

Mr. Arroyo was convicted in 1998 for his role in the killing of Jose Cobo, 39, an Air Force captain and the chief of maintenance training at the Inter-American Air Forces Academy in Lackland, Tex. Mr. Arroyo, then 17, and an accomplice, Vincent Gutierrez, 18, wanted to steal Captain Cobo's red Mazda RX-7 for parts.

Captain Cobo tried to escape but became tangled in his seat belt. Mr. Gutierrez shot him twice in the back and shoved the dying man onto the shoulder of Interstate 410 during rush hour on a rainy Tuesday morning.

Although Mr. Arroyo did not pull the trigger, he was convicted of felony murder, or participation in a serious crime that led to a killing. He contends that he had no reason to think Mr. Gutierrez would kill Captain Cobo and therefore cannot be guilty of felony murder. "I don't mind taking responsibility for my actions, for my part in this crime," he said. "But don't act like I'm a murderer or violent or that this was premeditated."

That argument misunderstands the felony murder law, legal experts said. Mr. Arroyo's decision to participate in the carjacking is, they say, more than enough to support his murder conviction.

Captain Cobo left behind a 17-year-old daughter, Reena.

"I miss him so much it hurts when I think about it," she said of her father in a victim impact statement presented at trial. "I know he is in heaven with my grandmother and God is taking care of him. I want to see the murderers punished not necessarily by death. I feel sorry that they wasted theirs and my father's life."

Ms. Cobo declined to be interviewed.

Mr. Arroyo said he was not eager to leave death row, and not just because of dwindling interest in his case.

"All I know is death row," he said. "This is my life. This is where I grew up."

His lawyer sees reasons for him to be concerned about moving off death row.

"He's going to become someone's plaything in the general population," Mr. Dow said. "He's a small guy, and the first time someone tries to kill him they'll probably succeed."

That kind of violence is not the way most lifers die. At Angola, for instance, two prisoners were killed by fellow inmates in the five years ended in 2004. One committed suicide, and two were executed. The other 150 or so died in the usual ways.

The prison operates a hospice to tend to dying prisoners, and it has opened a second cemetery, Point Lookout Two, to accommodate the dead.

On a warm afternoon earlier this year, men in wheelchairs moved slowly around the main open area of the prison hospice. Others lounged in bed.

The private rooms, for terminal patients, are as pleasant as most hospital rooms, though the doors are sturdier. The inmates have televisions, video games, coffeepots and DVD players. One patient watched "Lara Croft: Tomb Raider."

Robert Downs, a 69-year old career bank robber serving a 198-year term as a habitual felon, died in one of those rooms the day before. In his final days, other inmates tended to him, in four-hour shifts, around the clock. They held his hand and eased his passage.

"Our responsibility," said Randolph Matthieu, 53, a hospice volunteer, "is so that he doesn't die there by himself. We wash him and clean him if he messes himself. It's a real humbling experience."

Mr. Matthieu is serving a life sentence for killing a man he met at the C'est La Guerre Lounge in Lafayette, La., in 1983.

At Point Lookout Two the next day, there were six mounds of fresh dirt and one deep hole, ready to receive Mr. Downs. Under the piles of dirt were other inmates who had recently died. They were awaiting simple white crosses like the 120 or so nearby. The crosses bear two pieces of information. One is the dead man's name, of course. Instead of the end points of his life, though, his six-digit prison number is stamped below.

The sun was hot, and the gravediggers paused for a rest after their toil.

"I'm hoping I don't come this way," said Charles Vassel, 66, who is serving a life sentence for killing a clerk while robbing a liquor store in Monroe, La., in 1972. "I want to be buried around my family."

The families of prisoners who die at Angola have 30 hours to claim their bodies, and about half do. The rest are buried at Point Lookout Two.

"It's pretty much the only way you leave," said Timothy Bray, 45, also in for life. Mr. Bray, who helped beat a man to death for falling behind in his debts, tends to the horses that pull the hearse on funeral days, placing white and red rosettes in their manes.

### **Wary of a Transformed World**

Not all older lifers are eager to leave prison. Many have grown used to the free food and medical care. They have no skills, they say, and they worry about living in a world that has been radically transformed by technology in the decades that they have been locked up.

Wardens like Mr. Cain say that lifers are docile, mature and helpful.

"Many of the lifers are not habitual felons," he added. "They committed a murder that was a crime of passion. That inmate is not necessarily hard to manage."

What is needed, he said, is hope, and that is in short supply. "I tell them, 'You never know when you might win the lottery,' " Mr. Cain said. "You never know when you might get a pardon. You never know when they might change the law."

Up the road from Point Lookout Two, near the main entrance, is the building that houses the state's death row. Lawyers for the 89 men there are hard at work, trying to overturn their clients' convictions or at least convert their death sentences into life terms. According to the Death Penalty Information Center, eight Louisiana death row inmates

have been exonerated in the last three decades. More than 50, prison officials said, have had their sentences commuted to life.

But those hard-won life sentences, when they come, do not always please the prisoners.

"I have to put a lot of these guys on suicide watch when they get off death row," said Cathy Fontenot, an assistant warden, "because their chances have gone down to this."

She put her thumb and forefinger together, making a zero.

Janet Roberts contributed reporting for this series. Research was contributed by Jack Styczynski, Linda Amster, Donna Anderson, Jack Begg, Alain Delaqu  rie, Sandra Jamison, Toby Lyles and Carolyn Wilder.

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## **America has 2,000 young offenders serving life terms in jail**

**By Andrew Gumbel in Los Angeles**

**Published: 12 October 2005**

Two leading human rights organisations have accused the United States of in effect throwing away the lives of more than 2,000 juvenile offenders sentenced to life imprisonment without the possibility of parole - a punishment out of step with international law but one increasingly popular with tough-on-crime US legislators.

According to a report being published today by Amnesty International and Human Rights Watch, the United States is the only country to punish juveniles so severely on a routine basis. They counted 2,225 child offenders locked up for life across 42 American states. In the rest of the world, they found only a dozen other cases, restricted to three countries - Israel, South Africa and Tanzania.

"Criminal punishment in the United States can serve four goals: rehabilitation, retribution, deterrence and incapacitation," the report concludes, and that no punishment "should be more severe than necessary to achieve these stated goals. Sentencing children to life without parole fails to measure up on all counts."

Some American states permit the imposition of a life sentence without parole to offenders as young as 10. The youngest actually serving such a sentence are 13. Roughly one-sixth of those locked up for life committed their offences when they were under 16. Almost 60 per cent were given their life sentence for their first offence.

In most cases, the crime in question was murder. But about a quarter of those locked up, the report found, were not the actual murderers, merely participants in a robbery or burglary in which a murder was committed by someone else. In many American states, draconian laws stipulate that being present at the scene of a murder can be equivalent to being guilty of the murder, with punishment meted out accordingly.

The report found that while the number of juvenile offenders being sentenced to life had gone up markedly over the past 25 years, the rate of serious juvenile crime had gone down. In most years since 1985, juvenile offenders have been sentenced to life without parole at a faster rate than adult murderers.

The imposition of severe sentences on juvenile offenders has coincided with a general crackdown on crime in the United States over the past generation. Politicians have found that it pays electoral dividends to advocate an attitude of "lock 'em up and throw away the key".

October 17, 2007

# Lifers as Teenagers, Now Seeking Second Chance

By ADAM LIPTAK

[Skip to next paragraph](#)

## American Exception

### *Without Parole*

This is the first in an occasional series of articles that will examine commonplace aspects of the American justice system that are actually unique in the world.

BIRMINGHAM, Ala. — In December, the United Nations took up a resolution calling for the abolition of life imprisonment without the possibility of parole for children and young teenagers. The vote was 185 to 1, with the United States the lone dissenter.

Indeed, the United States stands alone in the world in convicting young adolescents as adults and sentencing them to live out their lives in prison. According to a new report, there are 73 Americans serving such sentences for crimes they committed at 13 or 14.

Mary Nalls, an 81-year-old retired social worker here, has some thoughts about the matter. Her granddaughter Ashley Jones was 14 when she helped her boyfriend kill her grandfather and aunt — Mrs. Nalls's husband and daughter — by stabbing and shooting them and then setting them on fire. Ms. Jones also tried to kill her 10-year-old sister.

Mrs. Nalls, who was badly injured in the rampage, showed a visitor to her home a white scar on her forehead, a reminder of the burns that put her into a coma for 30 days. She had also been shot in the shoulder and stabbed in the chest.

"I forgot," she said later. "They stabbed me in the jaw, too."

But Mrs. Nalls thinks her granddaughter, now 22, deserves the possibility of a second chance.

"I believe that she should have gotten 15 or 20 years," Mrs. Nalls said. "If children are under age, sometimes they're not responsible for what they do."

The group that plans to release the report on Oct. 17, the Equal Justice Initiative, based in Montgomery, Ala., is one of several human rights organizations that say states should be required to review sentences of juvenile offenders as the decades go by, looking for cases where parole might be warranted.

But prosecutors and victims' rights groups say there are crimes so terrible and people so dangerous that only life sentences without the possibility of release are a fit moral and practical response.

"I don't think every 14-year-old who killed someone deserves life without parole," said Laura Poston, who prosecuted Ms. Jones. "But Ashley planned to kill four people. I don't think there is a conscience in Ashley, and I certainly think she is a threat to do something similar."

Specialists in comparative law acknowledge that there have been occasions when young murderers who would have served life terms in the United States were released from prison in Europe and went on to kill again. But comparing legal systems is difficult, in part because the United States is a more violent society and in part because many other nations imprison relatively few people and often only for repeat violent offenses.

"I know of no systematic studies of comparative recidivism rates," said James Q. Whitman, who teaches comparative criminal law at Yale. "I believe there are recidivism problems in countries like Germany and France, since those are countries that ordinarily incarcerate only dangerous offenders, but at some point they let them out and bad things can happen."

The differences in the two approaches, legal experts said, are rooted in politics and culture. The European systems emphasize rehabilitation, while the American one stresses individual responsibility and punishment.

Corrections professionals and criminologists here and abroad tend to agree that violent crime is usually a young person's activity, suggesting that eventual parole could be considered in most cases. But the American legal system is more responsive to popular concerns about crime and attitudes about punishment, while justice systems abroad tend to be administered by career civil servants rather than elected legislators, prosecutors and judges.

In its sentencing of juveniles, as in many other areas, the legal system in the United States goes it alone. American law is, by international standards, a series of innovations and exceptions. From the central role played by juries in civil cases to the election of judges to punitive damages to the disproportionate number of people in prison, the United States is an island in the sea of international law.

And the very issue of whether American judges should ever take account of foreign law is hotly disputed. At the hearings on their Supreme Court nominations, both John G. Roberts Jr. and Samuel A. Alito Jr. said they thought it a mistake to consider foreign law in constitutional cases.

But the international consensus against life-without-parole sentences for juvenile offenders may nonetheless help Ms. Jones. In about a dozen cases recently filed around the country on behalf of 13- and 14-year-olds sentenced to life in prison, lawyers for the



inmates relied on a 2005 Supreme Court decision that banned the execution of people who committed crimes when they were younger than 18.

That decision, *Roper v. Simmons*, was based in part on international law. Noting that the United States was the only nation in the world to sanction the juvenile death penalty, Justice Anthony M. Kennedy, writing for the majority, said it was appropriate to look to “the laws of other countries and to international authorities as instructive” in interpreting the Eighth Amendment’s prohibition of cruel and unusual punishment.

He added that teenagers were different from older criminals — less mature, more susceptible to peer pressure and more likely to change for the better. Those findings, lawyers for the juvenile lifers say, should apply to their clients, too.

“Thirteen- and 14-year-old children should not be condemned to death in prison because there is always hope for a child,” said Bryan Stevenson, the executive director of the Equal Justice Initiative, which represents Ms. Jones and several other juvenile lifers.

The 2005 death penalty ruling applied to 72 death-row inmates, almost precisely the same number as the 73 prisoners serving life without parole for crimes committed at 13 or 14.

The Supreme Court did not abolish the juvenile death penalty in a single stroke. The 2005 decision followed one in 1988 that held the death penalty unconstitutional for those who had committed crimes under 16.

The new lawsuits, filed in Alabama, California, Florida, Missouri, North Carolina and Wisconsin, seek to follow a similar progression.

“We’re not demanding that all these kids be released tomorrow,” Mr. Stevenson said. “I’m not even prepared to say that all of them will get to the point where they should be released. We’re asking for some review.”

In defending American policy in this area in 2006, the State Department told the United Nations that sentencing is usually a matter of state law. “As a general matter,” the department added, juvenile offenders serving life-without-parole terms “were hardened criminals who had committed gravely serious crimes.”

Human rights groups have disputed that. According to a 2005 report from Human Rights Watch and Amnesty International, 59 percent of the more than 2,200 prisoners serving life without parole for crimes they committed at 17 or younger had never been convicted of a previous crime. And 26 percent were in for felony murder, meaning they participated in a crime that led to a murder but did not themselves kill anyone.

The new report focuses on the youngest offenders, locating 73 juvenile lifers in 19 states who were 13 and 14 when they committed their crimes. Pennsylvania has the most, with 19, and Florida is next, with 15. In those states and Illinois, Nebraska, North Carolina and Washington, 13-year-olds have been sentenced to die in prison.

In most of the cases, the sentences were mandatory, an automatic consequence of a murder conviction after being tried as an adult.

A federal judge here will soon rule on Ms. Jones's challenge to her sentence. Ms. Poston, who prosecuted her, said Ms. Jones was beyond redemption.

"Between the ages of 2 and 3, you develop a conscience," Ms. Poston said. "She never got the voice that says, 'This is bad, Ashley.' "

"It was a blood bath in there," Ms. Poston said of the night of the murders here, in 1999. "Ashley Jones is not the poster child for the argument that life without parole is too long."

In a telephone interview from the Tutwiler Prison for Women in Wetumpka, Ala., Ms. Jones said she did not recognize the girl who committed her crimes. According to court filings, her mother was a drug addict and her stepfather had sexually molested her. "Everybody I loved, everybody I trusted, I was betrayed by," Ms. Jones said.

"I'm very remorseful about what happened," she said. "I should be punished. I don't feel like I should spend the rest of my life in prison."

Mrs. Nalls, her grandmother, had been married for 53 years when she and her husband, Deroy Nalls, agreed to take Ashley in. She was "a problem child," and Mr. Nalls was a tough man who took a dislike to Ashley's boyfriend, Geramie Hart. Mr. Hart, who was 16 at the time of the murders, is also serving a life term. Mrs. Nalls said he deserved a shot at parole someday as well.

## Life without hope

In the US, there are 2,270 prisoners who were sentenced as children to life without parole. They will die behind bars. Ed Pilkington asks five of them - from a 21-year-old to a 70-year-old - how do they cope?

**Ed Pilkington**  
**Saturday August 4, 2007**

**Guardian**

"Closing!" A woman prison officer bellows out the word, her arms stretched across the doorway. She presses a button and a grate of thick iron bars slides shut with a thud. I'm inside now. It's impossible not to be overcome by a sense of déjà vu. You've been in this place a hundred times in a hundred movies, walked these colourless corridors, breathed in the sweat and disinfectant, flinched as the doors slam behind you. Over there is the observation desk where the guards are laughing at some joke behind bulletproof glass. There are the inmates' relatives in the visiting room, some looking bored, others trying hard not to cry. There are the prisoners themselves, dressed in their dark blue uniforms like pyjamas. There are the 30ft walls for you to stare at, and dream of scaling. Here are the rolls of barbed wire, glistening platinum white in the midday sun.

And there in front of you is a person looking up, with a nervous smile. She has blue eyes, hazel brown hair and freckles. Her prison number is stamped across her back: 599905. Nicole Ann Dupure. Height: 5ft 2in. Weight: 140lb. Date of birth: July 8 1986. Earliest release date: Life.

When she was sentenced, the judge ruled that the time she had spent in jail awaiting trial - 264 days - should be credited against her term of incarceration. What does that mean? Nobody can predict when Dupure will die, so nobody can calculate when to let her out. Her sentence demands she stay in the Robert Scott Correctional Facility, the main women's prison within the state of Michigan, for the rest of her natural life. She will never have the chance to demonstrate her remorse or convince anyone she has reformed: it is stipulated she is not entitled to parole.

Dupure was 17 when the crime for which she is convicted took place. She is one of 2,270 juveniles across the United States who were sentenced to life without parole, a punishment second only in severity to the death penalty. All were under 18 when they committed the crimes. Six of them were 13, and 50 of them were 14 - an age at which US law forbids them to drive a car, give medical consent, vote, leave school, sign a contract, drink alcohol in a bar, serve on a jury, be drafted in the army, live away from home. Yet they were tried as adults in an adult court and given no possibility of a second chance.

In Michigan, Dupure is one of 307 such inmates, the third highest number in any American state after Pennsylvania and Louisiana. She describes her prison day. She gets up at 4am to work in the kitchen. She does a 40-hour week, earning 18 cents an hour. When she asked the prison authorities if she could take a business vocational course, she was turned down on the grounds that as she will never be set free there is no point learning skills geared to rejoining the outside. It's not exactly what she intended to do with her future when she was a teenager, she tells me. At school she had aspirations to become a medical lab technician, specialising in the treatment of heart defects. Her background was far from typical for a lifer - no criminal record, no history of alcohol or drug abuse, a high school graduate with mainly B grades. Her next step was to be college.

A chance encounter when she was 17 changed everything. She was working in the holidays to earn petrol money at a grocery store near her home in Michigan's St Clair County. There was a 19-year-old working there called William Blevins who was funny and charismatic - they started dating. "I wasn't able to see the warning signs. My mum did. She said he didn't seem like a good kid and I shouldn't be around him as he would bring me down. I didn't listen to her. I thought like any teenager that she just didn't want me to have a boyfriend."

When Blevins was thrown out of his home by his parents, Dupure, by then pregnant, left home to be with him. "I just didn't want him to be alone," she says. They went looking for a motel room to rent. On April 23 2004 they stopped off at Big Boy, a fast-food restaurant she knew well because it was near the apartment of her great-aunt's best friend, Shirley Perry. Perry, who was 89, used to babysit for Dupure when she was very young; Dupure and Blevins had been to her flat several times, offering to help her with shopping and odd jobs.

At this point the official version parts company with Dupure's. In court, the prosecution alleged that the teenagers plotted together to kill Perry for her money. They took just \$30 from her flat to pay for motel fees and two milkshakes at Big Boy. Dupure actively participated in the murder, striking the old woman on the head with a cooking pot and fetching the kitchen knife Blevins used to kill her.

Dupure insists she was not in the apartment at all, but waited in the restaurant, oblivious to the events unfolding, while Blevins went off on his own. What is certain is that Blevins murdered the old woman, stabbing her several times and strangling her. Under police questioning he admitted it, saying he acted alone. But shortly before he went on trial he changed his evidence and put Dupure alongside him at the scene of the murder. In return, the prosecution agreed he should be given the lesser charge of second-degree murder and avoid lifelong incarceration. Under cross-examination, he conceded to the jury, "I never had intentions to pin it on her until I ran out of options."

Blevins got 20 to 50 years, with the hope of reducing his sentence through good behaviour. Dupure got life without parole, with no forensic evidence tying her to the crime and entirely on the strength of Blevins' testimony.

Dupure has just turned 21 but she still looks 17. She was told about life without parole for the first time when she entered prison - "You never go home." She spent much of her first year crying, she says. The prison doctor put her on Prozac but she stopped taking it; as she puts it, "I'm depressed because I'm in this place, not because I'm depressed." Instead, she sees the prison therapist once a month. She finds talking to the therapist helpful - she can't be open with other prisoners about her fears and despair, as it would be taken as a sign of weakness. In prison, "you have to pretend to be strong".

"The difficult bit is blocking out the thought that I'm here for ever. You can only do that for so long, and then you break down. Something hits you. Somebody will say, 'I'm glad I haven't got life' and it will get you. Or one of the friends you made will leave for the outside and that hurts, so you stop getting close to people." She was recently sent a questionnaire by lawyers conducting a survey of juvenile prisoners on life without parole. Asked what was the most difficult challenge she faced inside, she wrote, "Trying not to feel alone."

Michigan is one of 41 states in America that allows children under 18 to be imprisoned for the rest of their lives. The US is among a tiny minority of countries (Somalia is another) that have refused to sign up to the UN Convention on the Rights of the Child that expressly forbids the practice. According to Amnesty International and Human Rights Watch, only three other countries - Israel, South Africa and Tanzania - mete out the sentence and they have collectively just 12 prisoners serving it.

Technically, a child of any age could be incarcerated for life in Michigan for first-degree murder. Above the age of 14, suspects can be placed directly into the adult court system. At that point, even the judges' hands are tied. If a child is convicted in an adult court of a range of serious offences - taking part in a robbery that leads to murder, say - they must automatically be given life without parole, even where the judge feels that is inappropriate.

That's what happened to Matthew Bentley. Prisoner 271014. Height: 5ft 4in. Weight: 135lb. Date of birth: October 4 1982.

Bentley broke into a house in Michigan's Colfax township on September 2 1997 looking for a car to steal and some ready cash. By ill luck, he chose a house where the owner was a gun enthusiast and had 25 handguns and rifles on the property. Bentley had no experience with firearms, but when he came across them in the hallway, he grabbed a couple of handguns along with a bottle of Coke. The woman of the house, Betty Bardell, surprised him when she walked into the hallway shouting, "What the hell are you doing here? I'm going to call the police!"

Bentley pointed one of the guns at her and pulled the trigger. The bullet hit her in the left shoulder, and she fell to the floor bleeding. He told me what happened next: "I stood over her and I spoke to her and I said, 'I'm sorry. If I could I would call the police to get you out.' I cried a little bit. And then I left."

Bardell bled to death on the carpet.

There is nothing innocent about Bentley. He has never disputed what he did. He was aware immediately he pulled the trigger that he had done a terrible thing. "Have I felt remorse? I felt sorry from the first second and I always have done." The only mitigation was his age and his background. When he murdered Bardell, Matthew Bentley was 14. His legal file contains details of his immediate family ...

Father: In jail for sexually abusing a relative. Mother: Alcoholic; facing trial for receiving stolen property. Half-brother: In jail for raping a family member. Sister K: Alcoholic. Sister T: History of arrests for domestic assault. Half-sister C: In mental hospital.

Bentley's parents, Terry and Debra, were serial divorcees. They married in 1975 and divorced two years later. Terry took a second wife, Grace, in 1978. They divorced a year later. Terry remarried Debra in 1980, and she gave birth to Matthew in 1982. They divorced for the second time in 1989. Terry remarried Grace in 1991, by which time he was already in jail as a sex offender. Matthew's childhood was as you might expect in the circumstances. He was a straight E grade student. He was regularly suspended for truancy and often in trouble with police. He started smoking dope aged 10. He was in and out of children's homes, and at the time he murdered Bardell he was on Zoloft for depression and Dexedrine for hyperactivity.

The jury took just an hour to find him guilty in July 1998. He was 15 by then. One of the jurors told the local paper that "a couple of the older ladies on the jury broke down when we got in the jury room. They had feelings for the Bentley kid and they said they had grandchildren about his age."

Judge Richard Knoblock gave him the only sentence available to him under Michigan law. But he made his feelings clear. "I don't agree with the legislature that he should be sent away for the rest of his life without parole," the judge said. "It was a horrendous crime he committed and certainly he should be punished very severely. I'm just not confident in having to lock him up for ever."

Bentley is now 24. He says he has spent the past nine years in jail first in denial, then in deep despair, and now in some degree of reconciliation with his fate. He has stopped fighting in prison and no longer gets punishment cards. He has thought, too, about why he did what he did when

he was 14. "I was a child trying to be a man. I tried to step up to the roles that were missing in my home. I thought I'd get away with it. Even that was childish."

There is another document in his file, a poem that he wrote about his time inside. Part of it reads:

"Everyday that goes by,

You know you have to die

before you finish your time.

Suddenly you're all alone

and 50 or 60 years is too damn long.

Isolated in a world turn cold."

There are only three ways that prisoners put away for life as juveniles can hope to see the outside again. They can win an appeal, by proving there was a flaw in the trial process - they cannot challenge the sentence itself. They can receive a pardon from the governor of Michigan - except the governor has never pardoned a juvenile lifer. Or the state assembly could pass legislation outlawing the practice, and implement it retroactively. Lawyers working on many of the 307 cases have pulled together a bill that would do just that, which they hope will go before Michigan's lawmakers this autumn.

Deborah LaBelle, a leading lawyer who is supporting the bill on behalf of the American Civil Liberties Union, says she is as hopeful as she has ever been that the legislation might pass. "Sending someone to prison is partly about public security and partly about punishment. People are coming to understand that child prisoners should have a chance to prove they no longer pose a risk. And on punishment, then surely having a person spend more of their life in a prison cell than they had lived as children on the outside has to be sufficient even for the most unforgiving of people."

LaBelle has been careful to involve victims of juvenile crime and their families in the debate about changing the law, and several victims' families have privately offered their support. "They say that what happened was horrible and has devastated them, but they do not want the knowledge that the child who committed the crime will stay in jail for ever to rest on their conscience."

Kevin Boyd. Prisoner 251328. Height: 5ft 7in. Weight: 170lb. Date of birth: September 26 1977. He was 16 when, on August 6 1994, he helped his mother murder his own father. Like Matthew Bentley, Boyd came from a disturbed home. His mother, Lynn, was addicted to prescription and illicit drugs, his father, Kevin, was an alcoholic who regularly beat him. His parents separated on Boxing Day when Boyd was 11 and his mother went to live with another woman. Boyd went to 10 different schools before he dropped out at 15. He received psychiatric treatment and was in hospital after a suicide attempt.

On the night of the murder, Boyd's mother, high on drugs, met him at a Burger King and asked him for the keys to his father's flat, saying she was going to kill him. He handed over the keys. The next morning Boyd went to his father's flat and, hearing no one inside, forced open the door. Kevin senior was slumped in his easy chair. He had been bludgeoned with a baseball bat and stabbed 23 times.

Boyd was interrogated by police for eight hours. He told them he had handed over the keys and that was all. Then a second team of officers questioned him. They turned off the tape recorder, and kept repeating to him the mantra, "The truth will set you free."

"Every time I tried to tell them what happened, they shouted me down. 'No, you didn't do that!' This sounds totally irrational, I know, but after hours of that, I thought if I told them what they wanted they would let me out and it would all go away." He confessed to having been the one to stab his father 23 times, and was given life without parole.

Boyd has contemplated his actions and its consequences a great deal over the past 12 years in jail. He is writing an account of his childhood, the murder and his subsequent imprisonment. Though he protests that he was not the killer, he still holds himself wholly to blame for giving his mother the keys and thinks it was right that he was sent to prison for many years. "I'm not innocent. I was responsible for his death. I could have said no to my mother. I could have picked up the phone to warn my father. Anything. But I didn't, and I am suffering the consequences."

He says he has made that phone call to his father a "million times". "I think about it every night before I go to sleep." He has had a clean prison record for six years and leads a pretty solitary existence. He once had a pet, an injured meadow vole he found in the exercise yard that he nursed and then let go. He hasn't had a human visitor for 10 years, though he does correspond with his mother who is a lifer in the same prison as Dupure. He finds comfort in playing guitar, jogging around the yard and writing his memoir. In one chapter he says sorry to his father. "If I could change it, I would die in your place, just to hear your rare but contagious laugh one more time. Dad, I am so, so sorry. For what it's worth, I always loved you. I always loved you both."

Donald Logan. Prisoner 132850. Height: 5ft 5in. Weight: 135lb. Date of birth: June 23 1954. He was tried and convicted twice for the murder of a paperboy, Thomas Eldridge, who went to his school. They were both 16. At the first trial, Logan, who is black, was found guilty by 12 white jurors. His lawyers appealed on the grounds that the racial composition of the jury was prejudicial, and a retrial was ordered. In the second trial there were 11 white jurors, including two who were members of whites-only organisations. The 12th juror was black, but during the course of the hearing it emerged that she was the aunt of the prosecution's key witness who was giving evidence against Logan in exchange for a reduced sentence.

Logan's case illustrates two key statistics about juvenile life without parole. Of the 307 prisoners in Michigan on that sentence, 69% are black, compared with 15% of the state's population as a whole. A study by Human Rights Watch and Amnesty also found that more than one in four of the juveniles incarcerated for ever was convicted of "felony murder" - serious crimes during which someone is killed yet where the juvenile did not personally or directly cause the death.

The prosecution case against Logan was that he identified the paperboy to a gang of his elder brother's friends who had robbed Eldridge the previous week and wanted to prevent him giving evidence against them. Logan was alleged to have acted as lookout when two of the gang members shot the boy. It was never alleged he had pulled the trigger himself or even held a gun. "I killed nobody," Logan said. "The guys asked me who was the paperboy. I was the one who pointed him out. That's all I did."

At the trial, a psychologist who examined Logan said that though he was 17 by then, he had the level of understanding of a 12-year-old. The pre-sentence investigation described him as being "a failure in almost everything he ever tried" and he was labelled a "retard". As soon as he was arrested, aged 16, he was placed in an adult jail where he faced physical and sexual harassment from older prisoners. "That's one of the things I'd preach if I ever get out: never send a teenager to adult prison. They are just like a little animal who will get eat up the minute they arrive," he told me.

In the early 90s, Logan taught himself to read and write and discovered, to his own surprise, that he wasn't a "retard" after all. He also became a Jehovah's Witness and, with the help of the Bible, he has learned how to live peacefully in prison. The last time he had a disciplinary ticket was in 1996. "I can see now how I messed up my whole life. But I've also learned something in all these years inside: how to be a man, how to respect people, how not to take life for granted."

Under the terms of his sentence, though, he will never be able to argue in front of a parole board that he has changed. His most recent - and final - appeal against his sentence was in October 2001. His lawyers argued that to keep him inside any longer was tantamount to warehousing. They said he had proven himself to be a reliable, God-fearing and reformed person.

The judgment handed down at the end of that appeal sits in his legal file. It reads: "It is ordered and adjudged that the petition for habeas corpus be, and hereby is, DISMISSED WITH PREJUDICE."

So what if life continues to mean life? What if this autumn's bill falls? What if Donald Logan, and all the others, remain in their cells to the day they die?

I had been intending to put some of those questions to a man, now aged 70, who knows he will never see the outside of a prison again. Allen Smith. Prisoner 085017. Height: 6ft. Weight: 158lb. Date of birth: December 6 1936. He sent me word that he was keen to talk to me, but warned that he hadn't been feeling well lately and had been spending a lot of time in the prison infirmary. He would telephone me at his lawyer's office.

As I waited for the call, I read his file. Smith had an unhappy relationship with his stepfather, had been in and out of homes, and had a reputation for angry outbursts. He was 16 when, on December 2 1953, he walked up to the house of an old couple he knew well, Robert and Celeste Holton. He said he only intended to steal from the couple but things got out of control. He picked up a deer rifle that happened to be standing by their refrigerator. Afterwards, he said he didn't know what came over him, why he emptied the whole cartridge and killed them both.

He was arrested that day and taken to prison. The lawyer appointed to his case advised him to plead guilty. That way he would be out after 10 years. "Listen to him, son," said the sheriff. "He's telling you right." Smith did as he was advised and on December 19, just 17 days after the murder, he was sentenced to life without parole. The judge said he had no choice. "It is hard on the court and hard on you and hard on everybody, and too hard on the two dead people, but crime does not pay," he said.

Smith spent several years in solitary confinement with hard labour. He writes in his file that soon after the murder he was struck by a deep feeling of remorse. "I had hoped they'd take my own life, and I couldn't understand how I could have done such a thing to such wonderful people, because they really were. It really tore me apart for a long time."

Details from the file are sketchy, but he has clearly suffered other periods of anger and despair, punctuated by moments of hope and happiness. He realised only a few years into his sentence that he would stay in jail for ever. In 1976 he tried to build a better life for himself in prison and he married a woman who had been visiting him. At the time he had hopes he might be given a parole hearing. When it became clear those hopes were groundless, he told the woman he wanted a divorce, to spare her. They still write. Then in 1982 he escaped from prison, and was recaptured after a few days. Futilely, he was given an additional five years on his sentence.

Recently he has become more at ease with himself. He took up courses in Bible studies and literacy. He has also versed himself in the law, and until he became ill would act as a legal adviser to younger prisoners, helping them prepare appeals. Smith writes in his file that he has



come to accept that he will die in jail. In an entry a few months ago, he says he is certain he has not long to live. He says religion has proved a comfort to him: "I know I have been forgiven."

I spent most of the day in the lawyer's office waiting for his call. It never came.

Nicole Dupure is at the beginning of the journey and has the experience of despair and reconciliation still in front of her. She's started to think about what has happened to her and why. "I just wanted to grow up too fast, I wanted it all right then."

Her mother and father visit her regularly. "I do my best to hide it when I'm not coping. Especially from my dad. He's 73 and he thinks he will die before I get out." Her child by Blevins is now two years old and has been adopted by Dupure's mother. The little girl came to see Dupure for the first and only time in April. Dupure was shocked because she had assumed her daughter would not remember her, but she did and ran into her arms calling, "Mummy!"

It's time to go and I ask Dupure a couple of last questions. Should the bill fail this autumn, should she remain in jail for ever, could she find any value in life? "I'm going to keep positive," she replies. "I'm not going to try to kill myself or anything. I'm in prison, yes, but it's still a life. I'm just in another world now."

And her regrets?

"I just wish I'd listened to my mum. She laughs when I say that and says, 'It's a little late now, Nic.'"

I stand to leave, walking back past the observation post and into the antechamber with the sliding iron doors. The woman guard steps forward to meet me and shouts, "Closing!" for a second time.

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As a result, state and federal legislators have introduced ever tougher regimes of mandatory minimum sentencing, including one notorious law in California whereby even non-violent offenders can face life without parole if they are caught three times. One of the mantras often heard in political circles is that offenders should do "adult time for adult crimes".

Amnesty and Human Rights Watch said it was inappropriate to deny the possibility of rehabilitation to teenagers. Sentencing them to life inside a prison removed motivation to pursue an education or any self-improvement. Being in an adult prison rather than a juvenile facility also exposed them to a heightened risk of assault and rape.

Sentencing children to life without parole is forbidden under the United Nations' Convention on the Rights of the Child, which has been ratified by every member state except the US and Somalia. Out of 154 countries surveyed in the report, 13 were found to have laws on their books permitting life sentences for minors, but nine of these had never actually imposed one.

**Peter A, 29, lifer: A sentence disowned by the judge forced to deliver it**

Peter A, a black child from a broken home in Chicago, was just 15 when he went on a crime spree, ostensibly to recover some stolen money and drugs stolen from his older brother. The outing resulted in the shooting of two men, but Peter neither participated in nor witnessed the killings.

In fact, he later testified, one of the murder victims was a friend of his who had nothing to do with the original theft. While the shootings took place, Peter was sitting in a van parked in the street. He was charged with "felony murder" anyway because he had accompanied the two killers and, by his own admission, stolen the van in which they travelled to the house where the murders took place.

The trial judge, Dennis Dernback, sympathised with Peter, calling him a "bright lad" with rehabilitative potential and accepting that, in the absence of his father, he had fallen under the bad influence of his older brother. Judge Dernback's hands were tied, however, by Illinois' sentencing code.

In his written sentence condemning Peter to life imprisonment without parole, he stated: "That is the sentence that I am mandated by law to impose. If I had my discretion, I would impose another sentence, but that is mandated by law."

Peter (not his real name) is now 29. He has obtained a high-school equivalence diploma and completed a course in legal studies. He works in the prison library. The only strike against his disciplinary record has been a single bad report - for the offence of possessing an extra pillow and stashing extra cereal in his cell.

**October 3, 2005**

**Jailed for Life After Crimes as Teenagers**

**By ADAM LIPTAK**

OCALA, Fla. - About 9,700 American prisoners are serving life sentences for crimes they committed before they could vote, serve on a jury or gamble in a casino - in short, before they turned 18. More than a fifth have no chance for parole.

Juvenile criminals are serving life terms in at least 48 states, according to a survey by The New York Times, and their numbers have increased sharply over the past decade.

Rebecca Falcon is one of them.

Ms. Falcon, now 23, is living out her days at the Lowell Correctional Institution here. But eight years ago, she was a reckless teenager and running with a thuggish crowd when one night she got drunk on bourbon and ruined her life.

Ms. Falcon faults her choice of friends. "I tried cheerleaders, heavy metal people, a little bit of country and, you know, it never felt right," Ms. Falcon said. "I started listening to rap music and wearing my pants baggy. I was like a magnet for the wrong crowd."

In November 1997 she hailed a cab with an 18-year-old friend named Clifton Gilchrist. He had a gun, and within minutes, the cab driver was shot in the head. The driver, Richard Todd Phillips, 25, took several days to die. Each of the teenagers later said the other had done the shooting.

Ms. Falcon's jury found her guilty of murder, though it never did sort out precisely what happened that night, its foreman said. It was enough that she was there.

"It broke my heart," said Steven Sharp, the foreman. "As tough as it is, based on the crime, I think it's appropriate. It's terrible to put a 15-year-old behind bars forever."

The United States is one of only a handful of countries that does that. Life without parole, the most severe form of life sentence, is theoretically available for juvenile criminals in about a dozen countries. But a report to be issued on Oct. 12 by Human Rights Watch and Amnesty International found juveniles serving such sentences in only three others. Israel has seven, South Africa has four and Tanzania has one.

By contrast, the report counted some 2,200 people in the United States serving life without parole for crimes they committed before turning 18. More than 350 of them were 15 or younger, according to the report.

The Supreme Court's decision earlier this year to ban the juvenile death penalty, which took into account international attitudes about crime and punishment, has convinced

prosecutors and activists that the next legal battleground in the United States will be over life in prison for juveniles.

Society has long maintained age distinctions for things like drinking alcohol and signing contracts, and the highest court has ruled that youths under 18 who commit terrible crimes are less blameworthy than adults. Defense lawyers and human rights advocates say that logic should extend to sentences of life without parole.

Prosecutors and representatives of crime victims say that a sentence of natural life is the minimum fit punishment for a heinous crime, adding that some people are too dangerous ever to walk the streets.

In the Supreme Court's decision, Justice Anthony M. Kennedy said teenagers were different, at least for purposes of the ultimate punishment. They are immature and irresponsible. They are more susceptible to negative influences, including peer pressure. And teenagers' personalities are unformed. "Even a heinous crime committed by a juvenile," Justice Kennedy concluded, is not "evidence of irretrievably depraved character."

Most of those qualities were evident in Ms. Falcon, who had trouble fitting in at her Kansas high school and had been sent by her mother to live with her grandmother in Florida, where she received little supervision. She liked to smoke marijuana, and ran with a series of cliques. "I was looking for identity," she said.

Like many other lifers, Ms. Falcon is in prison for felony murder, meaning she participated in a serious crime that led to a killing but was not proved to have killed anyone.

In their report, the human rights groups estimate that 26 percent of juvenile offenders sentenced to life without parole for murder were found guilty of felony murder. A separate Human Rights Watch report on Colorado found that a third of juveniles serving sentences of life without parole there had been convicted of felony murder.

The larger question, advocates for juveniles say, is whether any youths should be locked away forever.

At the argument in the juvenile death penalty case, Justice Antonin Scalia said the reasons offered against execution apply just as forcefully to life without parole. Justice Scalia voted, in dissent, to retain the juvenile death penalty.

"I don't see where there's a logical line," he said at the argument last October.

When it comes to Ms. Falcon, the prosecutor in her case said she does not ever deserve to be free. Indeed, she is lucky to be alive.

The prosecutor, Jim Appleman, is convinced that she shot Mr. Phillips. "If she were a 29-year-old or a 22-year-old," he said, "I have no doubt she would have gotten the death penalty."

Ms. Falcon dressed up, as best one can in prison, to meet two journalists not long ago. There was nothing to be done about the plain blue prison dress, with buttons down the front. But she wore gold earrings, a crucifix on a gold chain and red lipstick. Her dark hair was shoulder length, and her eyes were big and brown.

She said her eight years in prison had changed her.

"A certain amount of time being incarcerated was what I needed," she said. "But the law I fell under is for people who have no hope of being rehabilitated, that are just career criminals and habitually break the law, and there's just no hope for them in society. I'm a completely different case."

"My sentence is unfair," she added. "They put you in, and they forget."

### **Tagging Along on a Horrific Night**

The case of another Florida teenager, Timothy Kane, demonstrates how youths can be sent away for life, even when the evidence shows they were not central figures in a crime.

Then 14, Timothy was at a friend's house, playing video games on Jan. 26, 1992, Super Bowl Sunday, when some older youths hatched a plan to burglarize a neighbor's home. He did not want to stay behind alone, he said, so he tagged along.

There were five of them, and they rode their bikes over, stashing them in the bushes. On the way, they stopped to feed some ducks.

Two of the boys took off at the last moment, but Timothy followed Alvin Morton, 19, and Bobby Garner, 17, into the house. He did not want to be called a scaredy-cat, he said.

"This is," he said in a prison interview, "the decision that shaped my life since."

The youths had expected the house to be empty, but they were wrong. Madeline Weisser, 75, and her son, John Bowers, 55, were home.

While Timothy hid behind a dining room table, according to court records, the other two youths went berserk.

Mr. Morton, whom prosecutors described as a sociopath, shot Mr. Bowers in the back of the neck while he pleaded for his life, killing him. Mr. Morton then tried to shoot Ms. Weisser, but his gun jammed. Using a blunt knife, Mr. Morton stabbed her in the neck, and Mr. Garner stepped on the knife to push it in, almost decapitating her.

"I firmly believe what they were trying to do was take the head as a kind of souvenir," said Robert W. Attridge, who prosecuted the case.

Mr. Morton and Mr. Garner did succeed in cutting off Mr. Bowers's pinkie. They later showed it to friends.

Mr. Morton was sentenced to death. Mr. Garner, a juvenile offender like Mr. Kane, was given a life sentence with no possibility of parole for 50 years.

Mr. Kane was also sentenced to life, but he will become eligible for parole after 25 years, when he will be 39. However, he is not optimistic that the parole board will ever let him out. Had he committed his crime after 1995, when Florida changed its law to eliminate the possibility of parole for people sentenced to life, he would not have even that hope.

Florida is now one of the states with the most juveniles serving life. It has 600 juvenile offenders serving life sentences; about 270 of them, including Ms. Falcon, who committed her crime in 1997, are serving life without parole.

Data supplied by the states on juveniles serving life is incomplete. But a detailed analysis of data from another state with a particularly large number of juvenile lifers, Michigan, shows that the mix of the life sentences - those with the possibility of parole and those without - is changing fast.

In Michigan, the percentage of all lifers who are serving sentences without parole rose to 64 percent from 51 percent in the 24 years ended in 2004. But the percentage of juvenile lifers serving such sentences rose to 68 percent from 41 percent in the period. Now two out of three juvenile lifers there have no shot at parole.

The Times's survey and analysis considered juvenile lifers generally, while the human rights report examined juveniles serving life sentences without parole. Both studies defined a juvenile as anyone younger than 18 at the time of the offense or arrest. For some states that could not provide a count based on such ages, the studies counted as a juvenile anyone under the age of 20 at sentencing or admission to prison.

Juvenile lifers are overwhelmingly male and mostly black. Ninety-five percent of those admitted in 2001 were male and 55 percent were black.

Forty-two states and the federal government allow offenders under 18 to be put away forever. Ten states set no minimum age, and 13 set a minimum of 10 to 13. Seven states, including Florida and Michigan, have more than 100 juvenile offenders serving such sentences, the report found. Those sending the largest percentages of their youths to prison for life without parole are Virginia and Louisiana.

### **Some Dismay Over Sentences**

Juvenile lifers are much more likely to be in for murder than are their adult counterparts, suggesting that prosecutors and juries embrace the punishment only for the most serious crime.

While 40 percent of adults sent away for life between 1988 and 2001 committed crimes other than murder, like drug offenses, rape and armed robbery, the Times analysis found, only 16 percent of juvenile lifers were sentenced for anything other than murder.

In those same years, the number of juveniles sentenced to life peaked in 1994, at about 790, or 15 percent of all adults and youths admitted as lifers that year. The number dropped to about 390, or 9 percent, in 2001, the most recent year for which national data is available.

Similarly, the number of juveniles sentenced to life without parole peaked in 1996, at 152. It has dropped sharply since then, to 54 last year. That may reflect a growing discomfort with the punishment and the drop in the crime rate.

It is unclear how many juveniles or adults are serving life sentences under three-strikes and similar habitual-offender laws.

Human rights advocates say that the use of juvenile life without parole, or LWOP, is by one measure rising. "Even with murder rates going down," said Alison Parker, the author of the new report, "the proportion of juvenile murder offenders entering prison with LWOP sentences is going up."

The courts that consider the cases of juvenile offenders look at individuals, not trends. But sometimes, as in Mr. Kane's case, they express dismay over the sentences that are required.

"Tim Kane was 14 years and 3 months old, a junior high student with an I.Q. of 137 and no prior association with the criminal justice system," Judge John R. Blue wrote for the three-judge panel that upheld Mr. Kane's sentence. "Tim did not participate in the killing of the two victims."

These days, Mr. Kane, 27, looks and talks like a marine. He is fit, serious and polite. He held a questioner's gaze and called him sir, and he grew emotional when he talked about what he saw that January night.

"I witnessed two people die," he said. "I regret that every day of my life, being any part of that and seeing that."

He does not dispute that he deserved punishment.

"Did I know right from wrong?" he asked. "I can say, yes, I did know right from wrong."

Still, his sentence is harsh, Mr. Kane said, spent in the prison print shop making 55 cents an hour and playing sports in the evenings.

"You have no hope of getting out," he said. "You have no family. You have no moral support here. This can be hard."

Mr. Attridge, the prosecutor, who is now in private practice, said he felt sorry for Mr. Kane. "But he had options," Mr. Attridge said. "He had a way out. The other boys decided to leave."

In the end, the prosecutor said, "I do think he was more curious than an evil perpetrator."

"Could Tim Kane be your kid, being in the wrong place at the wrong time?" he asked.

"I think he could. It takes one night of bad judgment and, man, your life can be ruined."

### **Different Accounts of a Crime**

Visitors to the women's prison here are issued a little transmitter with an alarm button on it when they enter, in case of emergency. But Ms. Falcon is small and slim and not particularly threatening.

She sat and talked, in a flat Midwest tone married to an urban rhythm, on a concrete bench in an outdoor visiting area. It was pleasant in the shade.

Her mother, Karen Kaneer, said in a telephone interview that her daughter's troubles began in Kansas when she started to hang around with black youths.

"It wasn't the good black boys," Ms. Kaneer said. "It was the ones who get in trouble. She started trying marijuana."

Not pleased with where things were heading, Ms. Kaneer agreed to send Rebecca away, to Panama City, Fla., to Rebecca's grandmother. "It was my husband's idea," Ms. Kaneer said ruefully, referring to Ms. Falcon's stepfather. "Her and my husband didn't have the best of relations."

Ms. Falcon received a piece of unwelcome news about an old boyfriend on the evening of Nov. 18, 1997, and she hit her grandparents' liquor cabinet, hard, drinking a big tumbler of whiskey. Later on, when she joined up with her 18-year-old friend, Mr. Gilchrist, she said, she did not suspect that anything unusual was going to happen. She thought they were taking the cab to a party.

"I didn't know there was going to be a robbery at that time," she said. "I mean, Cliff said things like he was going to try out his gun eventually, but as far as right then that night in that situation I didn't know."

Asked if she played any role in the killing, Ms. Falcon said, "No, sir, I did not."



In a letter from prison, where he is serving a life term, Mr. Gilchrist declined to comment. At his trial, both his lawyer and the prosecutor told the jury that Ms. Falcon was the killer.

The medical evidence suggested that the passenger who sat behind Mr. Phillips killed him. But eyewitnesses differed about whether that was Ms. Falcon or Mr. Gilchrist.

Several witnesses did say that Ms. Falcon had talked about violence before the shooting and bragged about it afterward.

"On numerous occasions she said she wanted to see someone die," Mr. Appleman, the prosecutor, said. Ms. Falcon said the evidence against her was "basically, that I was always talking crazy."

The testimony grew so confused that at one point Mr. Appleman asked for a mistrial, though he later withdrew the request.

Though their verdict form suggested that they concluded that Mr. Gilchrist was the gunman, the jurors remain split about what was proved. "There was no evidence presented to confirm who was the actual shooter," said Mr. Sharp, the jury's foreman.

But Barney Jones, another juror, said he believed Ms. Falcon shot the gun. "She was confused," he said. "She was probably a typical teenager. She was trying to fit in by being a violent person. The people she hung out with listened to gangster rap, and this was a sort of initiation."

Whoever was to blame, Mr. Phillips's death left a terrible void. "Each day we see a cab, the memories of our son and the tragic way he died surfaces," his father and stepmother, Roger and Karen Phillips, wrote at the time of the trial in a letter to Mr. Gilchrist, according to an article in *The News-Herald*, a newspaper in Panama City.

At the prison here, as Ms. Falcon talked, a photographer started shooting, and she seemed to enjoy the attention, flashing a big smile at odds with the grim surroundings.

It was a break, she explained, from the grinding monotony that is the only life she may ever know. She reads to kill time and to prepare herself in case a Florida governor one day decides to pardon her.

She had just finished a book on parenting.

"If God lets me go and have a kid," she said, "I want to know these things so I can be a good mother."

*Janet Roberts contributed reporting for this series. She was assisted by Linda Amster, Jack Styczynski, Donna Anderson, Jack Begg, Alain Delaquerière, Sandra Jamison, Toby Lyles and Carolyn Wilder.*

**October 2, 2005**

**To More Inmates, Life Term Means Dying Behind Bars**

**By ADAM LIPTAK**

HARRISBURG, Pa. - In the winter woods near Gaines, Pa., on the day before New Year's Eve in 1969, four 15-year-olds were hunting rabbits when Charlotte Goodwin told Jackie Lee Thompson a lie. They had been having sex for about a month, and she said she was pregnant.

That angered Jackie, and he shot Charlotte three times and then drowned her in the icy waters of Pine Creek.

A few months later, Judge Charles G. Webb sentenced him to life in prison. But the judge told him:

"You will always have hope in a thing of this kind. We have found that, in the past, quite frequently, if you behave yourself, there is a good chance that you will learn a trade and you will be paroled after a few years."

Mr. Thompson did behave himself, learned quite a few trades in his 35 years in prison - he is an accomplished carpenter, bricklayer, electrician, plumber, welder and mechanic - and earned a high school diploma and an associate's degree in business.

So exemplary is his prison record that when Mr. Thompson, now 50, asked the state pardons board to release him, the victim's father begged for his release, and a retired prison official offered Mr. Thompson a place to stay and a job.

"We can forgive him," said Duane Goodwin, Charlotte's father. "Why can't you?" The board turned Mr. Thompson down.

Tom Corbett, the state attorney general, cast the decisive vote.

"He shot her with a pump-action shotgun, three times," Mr. Corbett said. "This was a cold-blooded killing."

Just a few decades ago, a life sentence was often a misnomer, a way to suggest harsh punishment but deliver only 10 to 20 years.

But now, driven by tougher laws and political pressure on governors and parole boards, thousands of lifers are going into prisons each year, and in many states only a few are

ever coming out, even in cases where judges and prosecutors did not intend to put them away forever.

Indeed, in just the last 30 years, the United States has created something never before seen in its history and unheard of around the globe: a booming population of prisoners whose only way out of prison is likely to be inside a coffin.

A survey by The New York Times found that about 132,000 of the nation's prisoners, or almost 1 in 10, are serving life sentences. The number of lifers has almost doubled in the last decade, far outpacing the overall growth in the prison population. Of those lifers sentenced between 1988 and 2001, about a third are serving time for sentences other than murder, including burglary and drug crimes.

Growth has been especially sharp among lifers with the words "without parole" appended to their sentences. In 1993, the Times survey found, about 20 percent of all lifers had no chance of parole. Last year, the number rose to 28 percent.

The phenomenon is in some ways an artifact of the death penalty. Opponents of capital punishment have promoted life sentences as an alternative to execution. And as the nation's enthusiasm for the death penalty wanes amid restrictive Supreme Court rulings and a spate of death row exonerations, more states are turning to life sentences.

Defendants facing a potential death sentence often plead to life; those who go to trial and are convicted are sentenced to life about half the time by juries that are sometimes swayed by the lingering possibility of innocence.

As a result the United States is now housing a large and permanent population of prisoners who will die of old age behind bars. At the Louisiana State Penitentiary in Angola, for instance, more than 3,000 of the 5,100 prisoners are serving life without parole, and most of the rest are serving sentences so long that they cannot be completed in a typical lifetime.

About 150 inmates have died there in the last five years, and the prison recently opened a second cemetery, where simple white crosses are adorned with only the inmate's name and prisoner ID number.

### **A Growing Reliance on Life Terms**

American enthusiasm for life sentences reflects an uneasy societal consensus. Such sentences are undeniably tough, pleasing politicians and prosecutors, but they also satisfy opponents of capital punishment.

"If you are punishing a heinous criminal who has committed a violent murder, it is appropriate to use severe sanctions," said Julian H. Wright Jr., a lawyer in North Carolina and the author of a study on life without parole. "It has the advantage of achieving a harsh penalty and keeping a violent offender off the streets. And you don't take a human

life in the process. Indeed, if you mess up and do it wrong, you haven't taken someone's life."

But the prison wardens, criminologists and groups that study sentencing say the growing reliance on life terms also raises a host of questions.

Permanent incarceration may be the fitting punishment for murder. Few shed tears for Gary L. Ridgway, the Green River killer, who was sentenced to 48 consecutive life terms in Washington State, one for each of the women he admitted to killing.

But some critics of life sentences say they are overused, pointing to people like Jerald Sanders, who is serving a life sentence in Alabama. He was a small-time burglar and had never been convicted of a violent crime. Under the state's habitual offender law, he was sent away after stealing a \$60 bicycle.

Fewer than two-thirds of the 70,000 people sentenced to life from 1988 to 2001 are in for murder, the Times analysis found. Other lifers - more than 25,000 of them - were convicted of crimes like rape, kidnapping, armed robbery, assault, extortion, burglary and arson. People convicted of drug trafficking account for 16 percent of all lifers.

Life sentences certainly keep criminals off the streets. But, as decades pass and prisoners grow more mature and less violent, does the cost of keeping them locked up justify what may be a diminishing benefit in public safety? By a conservative estimate, it costs \$3 billion a year to house America's lifers. And as prisoners age, their medical care can become very expensive.

At the same time, studies show, most prisoners become markedly less violent as they grow older.

"Committing crime, particularly violent crime, is an activity of the young," said Richard Kern, the director of the Virginia Criminal Sentencing Commission.

Marc Mauer, executive director of the Sentencing Project, a research and advocacy group that issued a report on life sentences last year, said that about a fifth of released lifers were arrested again, compared with two-thirds of all released prisoners.

"Many lifers," Mr. Mauer said, "are kept in prison long after they represent a public safety threat."

In much of the rest of the world, sentences of natural life are all but unknown.

"Western Europeans regard 10 or 12 years as an extremely long term, even for offenders sentenced in theory to life," said James Q. Whitman, a law professor at Yale and the author of "Harsh Justice," which compares criminal punishment in the United States and Europe.

Michael H. Tonry, a professor of law and public policy at the University of Minnesota and an expert on comparative punishment, said life without parole was a legal impossibility in much of the world.

Mexico will not extradite defendants who face sentences of life without parole. And when Mehmet Ali Agca, the Turkish gunman who tried to kill Pope John Paul II in 1981, was pardoned in 2000, an Italian judge remarked, "No one stays 20 years in prison."

Some developing and Islamic nations mete out brutal sanctions, including corporal punishment and mutilation. But if the discussion is limited to very long prison sentences, Professor Tonry said, "we are vastly more punitive than anybody else."

The reasons for this gap are hard to pinpoint. Professor Whitman detects an American appetite for harsh retribution. Professor Tonry locates that appetite in a Calvinist tradition.

"It's the same reason we're not a socialist welfare state," he said. "You deserve what you get, both good and bad."

That sort of talk struck M. L. Ebert Jr., a former president of the Pennsylvania District Attorneys Association and the district attorney of Cumberland County, Pa., as a little fancy.

"Is it too much to ask that people don't kill people?" he said. "I can't tell you the devastation it causes families, who never forget. If you kill somebody, life means life without parole."

### **The Crime and the Victim**

"My anger broke loose, and I shot her," Mr. Thompson said recently, recalling for the millionth time the day he killed Charlotte Goodwin. He was afraid, he said, that her pregnancy would get him kicked out of his foster home, his fourth in five years and the first one that he liked.

Mr. Thompson is a slight, almost elfin man, with receding, wispy, unkempt salt-and-pepper hair, a casual mustache, breath that smells of cigarettes and moody brown eyes in a heavily creased face.

He is serving his time at the Rockview Correctional Institution near Bellefonte, just up the road from Pennsylvania State University. It is a soaring and forbidding mass of granite, a piece of Gotham City plunked down in the rolling hills of rural Pennsylvania.

He used his friend Dennis Ellis's pump-action shotgun, Mr. Thompson said, and he shot Charlotte at close range three times. He tried to explain the repeated shots.

"You have to pump each time," he said. "It is true. Dennis and I, we always had a habit of going out in the woods with a gun and see how fast we could empty a gun. That's where the second and third shots come from."

Charlotte's wounds were not immediately fatal. The youths had the idea, Mr. Thompson said, of putting her in a nearby creek. But she bobbed to the surface. So the three teenagers slid her body under the ice that covered a part of the creek, drowning her.

"You should have seen how stupid we was," Mr. Thompson said. "I wish I could change that."

Mr. Thompson grew up as a slow and confused child, with a slight speech impediment. He had 13 brothers and sisters, "and that's not counting the half ones," he said. "Three or four of them have died so far," he said. His mother died when he was 10, he added, "I'm told of cancer."

Mr. Thompson recalled his younger self.

"That 15-year-old kid was so scared. He was a special-ed kid. Special-ed kids get teased a lot. I was small. I kept running away. Here was a kid who was always scared to death, picked on, possibly beat up."

"Looking back," he said, "I wish someone would have grabbed hold of me and kicked my butt. I wasn't a bad kid."

He met Charlotte Goodwin at the foster home.

"I didn't get to know her that well," Mr. Thompson said. "At that age, boys are after one thing. A girl can talk all she wants and you ain't listening to her. You're thinking of only one thing."

Duane Goodwin, Charlotte's father, remembered a cheerful child.

"She was just happy-go-lucky," Mr. Goodwin said of her. "If there was any kind of music on, she'd move to it."

Jackie confessed to killing Charlotte, and Judge Webb sentenced him to life. At that time, 1970, in Pennsylvania, a life sentence usually meant fewer than 20 years.

Dorothy D. Quimby was the clerk of the Orphans Court of Tioga County at the time and she knew him as "a gentle, good boy who had suffered a lot of hurt."

"I also knew Judge Webb very well," she wrote to the pardons board, "and know that his intentions were not to have Jackie incarcerated for any great length of time."

A few months ago, Mr. Goodwin, 78, traveled 100 miles to speak up for his daughter's killer before the pardons board, which meets in an ornate courtroom of the State Supreme Court here, under a stained-glass cupola and a dozen frescoes attesting to the majesty of the law.

Mr. Goodwin, a retired glass factory worker with a gray goatee and a hearing aid, is a small man with erect posture, alert eyes and quick laugh, but he gets a little overwhelmed by public speaking. He spoke softly and haltingly.

"He was just a scared little kid," Mr. Goodwin said of Jackie. "If he ever gets out, he's got a good education, and I think he'll use it."

Kenneth Chubb, a retired facilities manager at the prison in Camp Hill, told the board that he had a proposal.

"My wife and I would both like to offer, if needed, a place for him to stay," Mr. Chubb said, his voice choking with emotion. "Plus, my son, who has a plumbing business, will offer him a job."

That drew a low whistle of surprise from a former prison official in the audience.

"For a corrections person to embrace an inmate is just incredible," the official, W. Scott Thornsley, said.

A few days before the hearing, Mr. Corbett, the state attorney general, met with Mr. Thompson.

"I walked out of the room thinking and feeling that he was going to say yes," Mr. Thompson later said. "He was not coldhearted. He wasn't drilling me. He gets to the point. He's a decent man."

But in the end, that visit, Mr. Goodwin's pleas and Mr. Chubb's offer were not enough to sway Mr. Corbett, the one dissenting vote on the five-member parole board.

"I am not prepared," Mr. Corbett said, "at this time to vote in the affirmative."

John F. Cowley, the district attorney in Tioga County, where the killing took place, agreed that Mr. Thompson should never be free.

"At the end of the day, in Pennsylvania life means life," Mr. Cowley said. "I come down on the side - not firmly - but I come down on the side that there should be no pardon. It's a tough case. The only reason is the age at the time of the crime. Everything else is way beyond ugly."

In lawsuits around the country, lifers are complaining that the rules were changed after sentencing. In some cases, they have the support of the judges who sentenced them.

A survey of 95 current and retired judges by the Michigan state bar released in 2002 found that, on average, the judges had expected prisoners sentenced to life with the possibility of parole to become eligible for parole in 12 years and to be released in 16 years. In July, a Michigan appeals court echoed that, saying that many lawyers there used to assume that a life sentence meant 12 to 20 years.

"This belief seems to have been somewhat supported by parole data," the court said in rejecting a claim from a prisoner who claimed that recent changes in the parole system had worked to his disadvantage. "For example, between 1941 and 1974, 416 parole-eligible lifers were paroled, averaging 12 per year."

In the last 24 years, by contrast, a New York Times analysis found that while the number of lifers shot up, the number of lifers who were paroled declined to about seven per year - even using the most liberal of definitions.

In 2002, for instance, a Michigan judge tried to reopen the case of John Alexander, whom he had sentenced to life with the possibility of parole for a seemingly unprovoked street shooting in 1981.

The judge, Michael F. Sapala, said he had not anticipated the extent to which the parole board "wouldn't simply change policies but, in fact, would ignore the law" in denying parole to Mr. Alexander. "If I wanted to make sure he stayed in prison for the rest of his life, I would have imposed" a sentence "like 80 to 150 years," the judge said.

An appeals court ruled that the judge no longer had jurisdiction over the case.

### **Executive Clemency Wanes**

In Louisiana, which, like Michigan and Pennsylvania, has a large number of lifers, "it was common knowledge that life imprisonment generally means 10 years and 6 months" in the 1970's, the state's Supreme Court said in 1982.

Since 1979, all life sentences there have come without the possibility of parole, and the governor rarely intervenes.

"The use of executive clemency has withered, as it has all over the country, especially with lifers," said Burk Foster, a recently retired professor of criminal justice at the University of Louisiana at Lafayette.

The federal appeals court in California is considering whether the parole board there may deny parole to lifers based on the nature of the original crime, which, prisoners say, is a form of double jeopardy. The plaintiff in the case, Carl Merton Irons II, shot and stabbed a housemate, John Nicholson, in 1984 after hearing that Mr. Nicholson was stealing from their landlord. Mr. Irons was sentenced to 17 years to life for second-degree murder.



The parole board refused for a fifth time to release him in 2001, saying that the killing was "especially cruel and callous."

The prosecutor who sent Mr. Irons away spoke up for him at a hearing the next year, to no avail. "If life would have it that Carl Irons was my next-door neighbor or I heard he was going to move next door to me," the prosecutor, Stephen M. Wagstaffe said, "my view to you would be that I'm going to have a good neighbor."

Mr. Irons filed a lawsuit challenging the board's decision. A federal district judge agreed, ordering him paroled. The federal appeals court is expected to rule soon. The state has 30,000 lifers, of whom 27,000 will eventually become eligible for parole. As a practical matter, parole for lifers is a two-step process: the parole board must recommend it, and the governor must approve it. Neither step is easy. In a 28-month period ending in 2001, according to the California Supreme Court, the board considered 4,800 cases and granted parole in 48. Gov. Gray Davis, a Democrat, reversed 47 of the decisions.

Governor Davis had run on a tough-on-crime platform. In five years as governor, he paroled five lifers, all murderers.

Gov. Arnold Schwarzenegger, a Republican who succeeded Mr. Davis in late 2003, has been more receptive to parole. He has paroled 103 lifers, 89 of them murderers. "Even though he is letting out more than Davis, it is still just a trickle," said Don Spector, executive director of the Prison Law Office, a legal group concerned with inmate rights and prison reform. "The victims' rights groups are used to seeing nothing, so to them, it seems like there's been a flood of releases."

Reginald McFadden is the reason lifers no longer get pardons in Pennsylvania. Mr. McFadden had served 24 years of a life sentence for suffocating Sonia Rosenbaum, 60, during a burglary of her home when a divided Board of Pardons voted to release him in 1992. After Gov. Robert P. Casey signed the commutation papers two years later, Mr. McFadden moved to New York, where he promptly killed two people and kidnapped and raped a third. He is now serving another life sentence there.

Lt. Gov. Mark Singel had voted to release Mr. McFadden. When news of the New York murders broke, Mr. Singel was running for governor and was well ahead in the polls. The commutation became a campaign issue, and Mr. Singel was defeated by Tom Ridge, who did not commute a single lifer's sentence in his six years in office. Ernest D. Preate Jr., the state attorney general at the time, was the sole dissenting vote in Mr. McFadden's case.

Then, it took only a majority vote of the board to recommend clemency. Mr. Preate worked to change that, and in 1997 Pennsylvania voters passed a constitutional amendment requiring a unanimous vote in cases involving the death penalty and life sentences. The amendment also changed the composition of the board, substituting, for instance, a crime victim for a lawyer.

Mr. Thornsley, a former corrections official who now teaches at Mansfield University, said the amendment made a sensible change. "It took a unanimous vote to convict somebody," he said. "It should take a unanimous vote to send a case to the governor. If you're going to have a sentence, it should be served out in its entirety." The McFadden experience in Pennsylvania is a representative one, said Michael Heise, a law professor at Cornell.

"Around World War II, governors were giving away clemency like candy," Dr. Heise said. "Ever since Governor Dukakis and Willie Horton and President Clinton and Marc Rich, executive officers have been far, far more reticent to exercise their power. The politics are pretty clear: they don't want to get burned."

As recently as 30 years ago, pardons for lifers were common in Pennsylvania. In eight years in the 1970's, for instance, Gov. Milton Shapp granted clemency to 251 lifers. Since 1995, even as the number of lifers has more than doubled, three governors combined have commuted a single life sentence.

These days, Mr. Preate is on the other side of the issue, working to overturn the amendment that he himself set in motion. He said his change of heart came after he spent a year in prison on a mail fraud conviction in the mid-90's. Meeting older lifers convinced him that the current system could be unduly punitive, he said. "That got me involved in the fight against the amendment I helped create and supported," he said.

Mr. Preate now supports legislation that would allow a parole board to consider the cases of lifers who have served 25 years and are at least 50. "I never foresaw the politicization of this process," he said, "and the fear that has crept into the process." Mr. Thompson entered prison in an era when its goal was rehabilitation, even for people serving nominal life terms. These days, he works as a prison carpenter, earning 42 cents an hour building cabinets and fixing things up around the prison, which houses about 1,800 inmates, more than 180 of whom are lifers. "It helps pay the cable and gets you a little bit of commissary," he said. "It might be strange to say, but coming to jail helped me. I got an education. Would I have got that out there? I probably would have quit like my brothers and most of my sisters. Would I have an associate's degree? Would I have job training?"

He has a cell to himself, with a television and a guitar. He plays "the old rock, the classics" and said he was partial to Bob Dylan. He has started playing sports.

"Softball season started up again and the young boys talked me in to playing again, and I'm pretty good," he said several months ago. He plays second base.

A lifer entering the system today would have few of Mr. Thompson's advantages. Programs have been cut back, and those that still exist are often reserved for prisoners serving short sentences.

Mr. Thompson sounded resigned when he talked about being turned down by the pardons board.

"A lot of guys in here really thought I was going to make it, staff and inmates, to give a little hope to the lifers," he said wearily. "I didn't cry this time. I committed a crime. Even though I think I've been punished enough, I'm to the point where I'm worried about my people, my supporters, because it really does take a toll on them."

### ***The Data on Lifers***

*Janet Roberts of The Times's computer-assisted reporting unit contributed reporting for this series. She was assisted by Jack Styczynski, Donna Anderson, Linda Amster, Jack Begg, Alain Delaqueriere, Sandra Jamison, Toby Lyles and Carolyn Wilder.*

October 3, 2005

# Years of Regret Follow a Hasty Guilty Plea Made at 16

By **ADAM LIPTAK**

WALLA WALLA, Wash. - The prosecutor was in the middle of his opening statement, describing in vivid and disturbing detail the murders of Homer and Vada Smithson, who had just celebrated their 70th wedding anniversary. The defendant, Donald Lambert, 16, doodled as he listened. Then, court records show, he passed a note to his lawyer. It said he wanted to plead guilty.

Mr. Lambert entered his plea 13 minutes later, after a brief conversation with his lawyer, Guillermo Romero. The plea required Mr. Lambert to spend the rest of his life in prison. Mr. Lambert said Mr. Romero, who has since been disbarred, offered him no guidance.

"He didn't go into, like I know now, that it was my whole life," Mr. Lambert said in an interview at the Washington State Penitentiary here. "None of my family was in the courtroom. I was on my own."

There is little question of Mr. Lambert's guilt. But there are substantial ones about whether he and other juveniles facing life sentences are competent to make decisions with permanent consequences. Had Mr. Lambert rolled the dice and allowed the trial to proceed, he could have done no worse than what he agreed to in his plea.

In Washington as in other states, minors who sign a contract to buy a stereo or a bicycle are allowed to change their minds. They are, in the words of the State Supreme Court, "incompetent to contract away their rights." But minors are allowed to enter binding plea agreements that call for life without the possibility of parole.

"He's got a right to plead guilty," said John Knodell, who prosecuted Mr. Lambert. "We trust kids that age to get an abortion."

Mr. Lambert, now 23, is an imposing young man, six feet of blocky muscle under a white T-shirt and blue jeans. He is covered in ugly prison tattoos, created with the motors from cassette decks. The tattoos climb up his neck, onto the back of his big square head and over an eyebrow. They compete for attention with a scar on his forehead. The combined effect is menacing. At the prison interview here, Mr. Lambert's new lawyers instructed him not to answer questions about the killings.

But according to court records, early in the morning on May 21, 1997, Mr. Lambert, then 15, and Adam Betancourt, 16, burst into the bedroom of Mr. and Mrs. Smithson, both in their late 80's, in Quincy, Wash.

The youths shot Mr. Smithson many times, in the head, chest, legs and abdomen, and then went outside to reload. Mrs. Smithson made a desperate phone call to her son: "They're killing me!"

"The phone was right by a big kitchen window," recalled Al Smithson, the couple's son. The youths then shot her through the window. "They peppered her big time," Mr. Smithson said. In 2003, a federal judge in Spokane threw out Mr. Lambert's guilty plea, calling his lawyer's conduct "unprofessional," "egregious" and "a dereliction of duty."

"Mr. Lambert had everything to lose by entering the guilty plea," wrote Judge W. Fremming Nielsen, who was appointed by the first President Bush. The decision to plead guilty to aggravated first-degree murder "was the most important decision of his life, and he was forced to make it without essential information." There was evidence, Judge Nielsen wrote, suggesting that Mr. Lambert incorrectly thought he was facing the death penalty and that the sentence he pleaded to would allow him to be paroled after 20 years.

Mr. Romero, the defense lawyer, was disbarred last year for conduct unrelated to Mr. Lambert's plea. In an interview, Mr. Romero said his former client pleaded guilty with full knowledge of the consequences. Mr. Romero said he was unsurprised that Mr. Lambert now claims to have been confused.

"I would lie on my mother's grave," Mr. Romero said, "if I thought it would save me from life in prison."

Judge Nielsen, in his 2003 decision, ordered prosecutors to try Mr. Lambert or release him. But the United States Court of Appeals for the Ninth Circuit, in San Francisco, reversed that ruling last year, saying Mr. Lambert had known what he was doing when he pleaded guilty.

## **Criminal Justice**

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### **DESIREE COOPER: Judge says violent kids need second chances, October 19, 2006**

BY DESIREE COOPER

FREE PRESS COLUMNIST

Balancing a victim's rage against a child's promise is what Eugene Arthur Moore does every day.

As an Oakland County Probate Court judge since 1966, he's witnessed the horror that violent teens can wreak upon victims' families. And he's also seen how troubled kids can turn their lives around.

He hopes one of them will be Nathaniel Abraham who, at 11, fatally wounded another teenager in 1997. Abraham was tried under a draconian Michigan law that made it possible for a child of any age to be tried and sentenced as an adult for murder.

"There was definitely a feeling back then that kids were becoming too dangerous and we needed to lock them up and throw away the key," said Moore on Tuesday after speaking at a juvenile justice symposium convened by the Skillman Center for Children.

But the long-feared generation of super predators has not materialized. In 1994, 1,968 Wayne County youth were arrested for violent crimes, including murder and forcible rape, compared to 413 arrests in 2004, according to the FBI. The numbers followed a national downward trend.

#### **Hope is put to the test**

Refusing to bow to pressure, Moore didn't throw away the key in the Abraham case. Instead of sentencing the boy as an adult, he sentenced him as a juvenile, ensuring his release in January, when he turns 21 -- whether he's rehabilitated or not.

Signs are promising. In preparation for his release, Abraham's been gradually stepped down from maximum security at the W.J. Maxey Training School near Whitmore Lake to a halfway house in Bay City. On Monday, he appears before the judge for one of his last progress reports.

#### **Gambling on a payoff**

It now costs about \$150,000 annually to house a boy at Maxey, compared to \$50,000 a year to send him to Harvard University. A purely punitive mentality, said Moore, has become too expensive.

"The pendulum is beginning to swing back," he said Tuesday. "There's now an understanding that working for the successful rehabilitation of criminals is not only cheaper, but it's the way to give society the best protection."

It can't be easy to hold that view when a young criminal has destroyed your life, but Moore has. His nephew, a Texas college student, was carjacked a few years ago. The perpetrator put Moore's nephew and a passenger in the trunk of the car, then drove it into a lake, drowning the two young men.

"Things like that shake your faith," said Moore, whose family did not seek the death penalty. "But it's amazing to me that outside of very serious cases, most victims don't talk about revenge, but about urging me to do what will make us safe."

"When Nate is released, the issue will not be whether or not I was right, but whether or not the juvenile system is working," said Moore. "If he's successful, maybe we can learn what we did right — for the sake of the other kids who are in the system."

And for our sake, too.

Contact **DESIREE COOPER** at 313-222-6625 or dcooper

@freepress.com.

The Detroit News 12-20-07 Section B6

# Woman makes peace with killers

■ Twins convicted in half brother's slaying were teens who made a terrible mistake, she says.

By ADAM GELLER  
Associated Press

**HOPKINS** — There's not much left to remember Robert Sellon by. A single, wallet-sized photo tucked into a framed collage. Old newspaper clippings. Many, many memories.

But Tammi Smith doesn't let go easily. More than 26 years after her half brother was murdered, she can still mimic the way he smiled, the way he talked. And she recounts what must have happened the night he was beaten to death in a Grand Rapids pool hall.

The men convicted of killing him have entrusted her with the details.

"I've got letter after letter that says if they could do things differently, if they could trade places with my brother, they would," Smith says, "and I know that's not just pencil on paper."

The story of how Smith made her peace with the twin brothers convicted of her half brother's slaying captures the difficult choices inherent in the debate over sentencing youth offenders to life without parole.

Tammi Smith was 15 at the time of the murder in 1981. Soon after, she went to the county jail where David Samel was being held, and cursed him for destroying her family. Then she tried to forget.

But six years ago, Smith and her sister realized it wouldn't be long before Michael Samel came up for parole. They wondered if he had changed. By then, Smith was a born-again Christian, newly reflective on the importance of forgiveness.

She sat down and wrote Michael Samel a letter.

He wrote back; later, his brother wrote, too.

Over time, Smith and the men convicted of her brother's murder began talking regularly, sending each other birthday and Christmas cards.

Those conversations convinced Smith her brother's killers were not monsters but two men who, as teenagers, had made a terrible mistake, their judgment clouded by drugs and immaturity.

"Sending these guys to prison for the rest of their lives is not going to bring my brother back," she says.

"It's been 25 years, 26 almost. I just think how much more punishment does it need to be? What good is going to come out of this?"

That argument largely echoes one by David Samel, serving life at Ionia Maximum Correctional Facility. Still, he can't quite make sense of Smith's forgiveness.

"I've got to tell you that sometimes I can't get my head around that whole thing," he says. "She's got a beautiful heart."

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# Youth sentences are reevaluated

States take look at value of handing out life without parole to juvenile defendants

By ADAM GELLER  
The Associated Press

DETROIT — It began as a feud only a child could invent — teenage chest-thumping about who had the right to sneak across the golf course at Germantown Town & Country Club after dark and scoop lost balls out of a pond. But by the time it ended in the pre-dawn blackness of a long-ago June morning, juvenile bravado had exploded into a crime whose horror defied adult comprehension.

Buried inside the charred skeleton of a Saginaw house, three children — 2-year-old Isaac Rolie and his 9- and 11-year-old sisters — lay dead. They perished at the hands of two local teens, who hurled pop-bottle firebombs through the windows of the house on Jordan Street so one could settle a petty score.

For taking three innocent lives, a judge decided, Michael Perry had to pay. Perry was 16 at the time of the fire, but for an adult crime he'd have to do adult time — and spend the rest of his life in prison, without any chance for parole.

That was 17 years ago. And today when Perry rises and offers his hand to a visitor allowed inside Detroit's Mound Correctional Facility, it is clear that prisoner No. 217645's claim on childhood long since has lapsed.

Today Perry appeals for the understanding he says the boy he once was still deserves.

"I was wrong. I took people's lives who didn't even have a chance to grow up and experience life. But, I mean, I didn't even experience life myself," said Perry, now 34. "I'm not saying a child should go unpunished. ... (But) it's like I'm just abandoned, discarded, left for nothing."

Perry is far from alone. At least 2,381 people are serving life without parole in U.S. prisons for crimes committed when they were 17 or younger. The vast majority are locked up because they took another life.

Ever since the U.S. Supreme Court ruled in 2005 that sentencing juveniles to death is unconstitutional, advocates have been nudging lawmakers, courts and the public to go one step further and re-examine the life sentences meted out to young people convicted of the most serious crimes.

If we believe juveniles are intrinsically different from adults, then how can we justify locking them away forever?

It is a difficult question and a painful one to contemplate. Some of the crimes are horrific. Others seem downright senseless. The age of the perpetrators and of their victims — is enough to make any mother or father say a quiet prayer.

Then there is the fact that laws stringently tightened in recent years often give judges and juries little or no choice in weighing punishment. Even when some measure of discretion is allowed, it can distort the choices.

When the time came to sentence Michael Perry, state law forced a judge to decide between widely disparate options. He could treat Perry as a juvenile, despite the seriousness of the crime, and see him released by 21. Or he could send him away forever.

"The only conclusion that I can reach," Judge Leopold P. Borrello told two grieving families gathered in the courtroom that day, "is that the law deprives me of doing justice."

## Rooted in fear

In the late 1980s and early 1990s, alarm over violent youth crime set off widespread fears. Tales of brutal carjackings and brazen gang warfare, of remorse-



**FACING THE MUSIC:** Michael L. Perry, 17, weeps after Judge Leopold P. Borrello sentenced him to three concurrent life terms without parole for first-degree murder, in June 1991, in Saginaw. Perry, who has served 16 years of his sentence is preparing to exercise his option to have a judge consider him for a reprieve after 20 years.

"Aren't there kids who have done horrible things? Yes. But then you have to grant that aren't there kids who didn't, who just made a horrible decision. Shouldn't we individualize them?"

Deborah LaBelle, Ann Arbor lawyer pushing for sentencing reform

less kids who killed just to know what it felt like, filled headlines. Many states began requiring that juveniles accused of first-degree murder be tried as adults. To show they meant business, lawmakers mandated stiffer punishments.

The new mind set resulted in swift change. In 1989, just two juveniles were sentenced to life without parole, the harshest punishment possible short of the death penalty. By 1996, 152 youth offenders were sent to prison for life, according to figures compiled by Human Rights Watch and Amnesty International.

Today, inmates in 39 states and the federal prisons are serving life without parole for crimes they committed as youngsters. Five states — Pennsylvania, Louisiana, Michigan, Florida and California — account for two-thirds of the cases documented by the two human rights groups, which are pushing for reform.

The tougher laws were applauded by prosecutors and victims' advocates as necessary tools to fight crime and protect the public.

But the sharp rise in juvenile violence that the new laws were meant to light never came.

## Re-evaluating our stand

Sending juveniles to prison for life raises a host of tough questions. Colorado tangled with them last year when lawmakers made juvenile lifers eligible for parole after 40 years. Legislators in Illinois and California have introduced bills calling for change.

Now, Michigan — where 306 inmates are serving life for crimes they committed when they were 17 or younger — could be the next to face those questions.

At least that is the hope of Deborah LaBelle, an Ann Arbor lawyer pushing for reform. She lambastes the inconsistencies of a legal system that deems people too immature to vote or drink alcohol or serve on juries, but says they are old enough to be held accountable as adults for their crimes. Worse, she said, is that mandating life sentences forces courts to treat all youth convicted of murder the same.

"Aren't there kids who have done horrible things? Yes. But then you have to grant that aren't there kids who didn't, who just made a horrible decision," she said. "Shouldn't we individualize them? ... Aren't there kids who didn't, who just made a horrible decision?"

LaBelle's files are filled with dozens of such stories. They are stories such as that of Trevor Browlee, who admonishes himself — 18 years too late — for his days as a teenage drug dealer on the streets of Ypsilanti. In 1989, when Browlee was 15, he and two friends set out for a party. Local gangs were feuding. Underneath his trenchcoat, Browlee carried a sword of shotgun.

It wasn't long before Browlee's group ran into teens they'd never seen before, in from Detroit. Soon, they started trading words over turf. The confrontation seemed to fizzle. Then, Browlee's friend shouted an alarm: Was one of the out-of-towners reaching for a gun?

Browlee fired into the Detroit crowd, then shot one in the torso, another in the leg. The first was killed. The second was paralyzed from the waist down.

Today, Browlee wears No. 211016 on the state blues issued to prisoners at Riverside Correctional Facility in Ionia, where he is serving life. "The sentence has given him plenty of time to think about that night. What troubles him goes beyond knowledge that he killed someone. It's that, in his words, the crime was "about nothing."

## Taking the hard-line

Browlee and others like him hope Michigan lawmakers see that they are worthy of a second chance. But backers of life without parole sharply disagree.

They're people such as Michael Thomas, the prosecutor in Saginaw, whose strong support for juvenile life sentences is based on personal experience: Years of violent juvenile crime have defiled his hometown, making clear the need to protect the public and see that justice is done, he said.

"I think most people sitting on a jury, most people with houses in your neighborhood, pretty much understand that they (juveniles accused of heinous crimes) are the worst of the worst and the penalty does fit the crime," he said.

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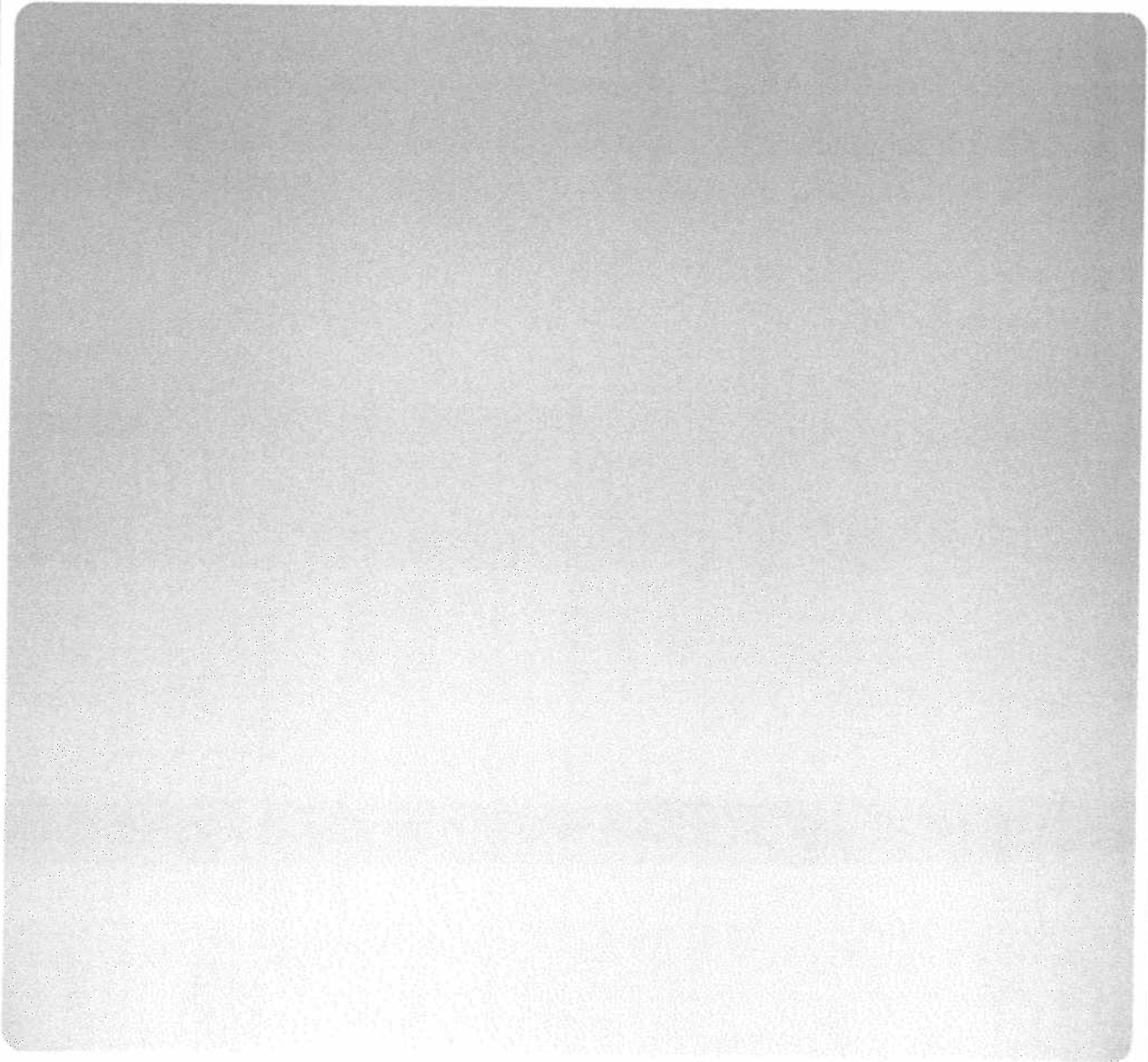
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# Research



## **Brain Development in Adolescence**

During the past two decades there has been a great deal of research on adolescent brain development that questions much of our earlier knowledge. The findings are relevant both with respect to a juvenile's culpability for a crime and also with respect to his/her ability to participate effectively in his/her defense in a trial.

### **The Adolescent Brain Is Not Fully Developed**

- Recent neuroscience research has revealed that the human brain is not fully developed until a person's mid-twenties, a finding which is contrary to previous beliefs that the brain matured much earlier in life.
- The last region of the brain to develop, the prefrontal cortex (PFC), governs abilities such as response inhibition, self-control, anticipation of consequences, and logical decision-making. Until the PFC is fully developed, the adolescent's ability to perform these functions is limited.
- Due to the high probability of their exposure to extreme stress, abuse, neglect, malnutrition, and head injury, delinquent adolescents are even less cognitively developed than the experimental subjects from which brain development evidence is drawn.
- Behaviorally, this can manifest as increased risk-taking and lower self control, especially in stressful or emotionally charged situations.

**Life without Parole**  
**for Those Sentenced as Youths:**  
**Public Opinion in Michigan\***

Sheryl Pimlott Kubiak, PhD

Terrence Allen, PhD

Anthony King, PhD

**WAYNE STATE**  
**UNIVERSITY**  

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**SCHOOL OF SOCIAL WORK**

Detroit, Michigan  
2005

\*Abridged version for Legislative Briefing May 4, 2006 in Lansing, MI. Full report available from authors or through WSU website.

Michigan is one of 19 states that allow children of any age to be tried and punished as adults. In Michigan, those 14 years and older will serve their sentences in adult facilities. These youths convicted as adults are subject to mandatory sentences of life without parole (LWOP) – thereby imprisoning them in adult facilities for the remainder of their natural lives. More than 300 youths (n=306) have been sentenced to LWOP and are serving their sentences in Michigan's adult prisons. Michigan is second only to Louisiana in the rate of youths 14-18 serving LWOP and third (behind Louisiana and Pennsylvania) in the number of juveniles sentenced to LWOP (Amnesty International/Human Rights Watch, 2005).

Frequently it is believed that there is a public mandate to be "tough on crime," yet there are often conflicting messages when it comes to youths. Data is scarce on answers to specific questions such as, "Does the public agree with LWOP for juveniles?" However a recent study explores this issue and public sentiment in Michigan to determine if citizens agree or disagree with current state laws.

This study, conducted by researchers at the Wayne State University School of Social Work and the Center for Urban Studies (CUS), sought to ask Michigan constituents their opinions. Each year, the center conducts a general population statewide survey of Michigan residents 18 and older. Individuals from every Michigan county, in proportion to their proportion to the overall state population, are surveyed. The survey was conducted during the spring and summer of 2005 and consists of 750 completed interviews and contains questions related to juvenile sentencing policies.

The findings related to public opinion in Michigan include:

- 80% believe that an adolescent's ability to control their impulses and understand the consequences of their action should be taken into consideration at sentencing.
- 63% believe that abuse during childhood should be considered for adolescents that commit violent acts.
- 72% believe that adolescents under the age of 18 who commit violent offenses are strong candidates for rehabilitation.
- 20% believe that juveniles, 16 years of age or under, who commit violent crimes, should be imprisoned in adult facilities.
- Only 5% of Michigan residents suggested that life without parole in an adult prison was an appropriate punishment for an adolescent convicted of homicide – the current Michigan policy.
- Only 9% of residents polled choose an option that secured juveniles in an adult prison.

- The majority (75%) support options that include securing adolescents convicted of homicide in juvenile facilities until age 18 and then transfer to an adult facility.

In summary, we found that the those surveyed do not agree with current policy in the state of Michigan, and when given the ability to choose among several options, only 5 percent of the sample of state's residents believed that LWOP in an adult facility was an appropriate sentence. Michigan citizens felt strongly that adolescents 16 and younger do not belong in adult correctional facilities. Nearly 80 percent of respondents believed that adolescents 14, 15, and 16 should not be imprisoned in adult prisons. Perhaps most important, more than 72 percent believed adolescents under the age of 18 who commit violent offenses are strong candidates for rehabilitation.

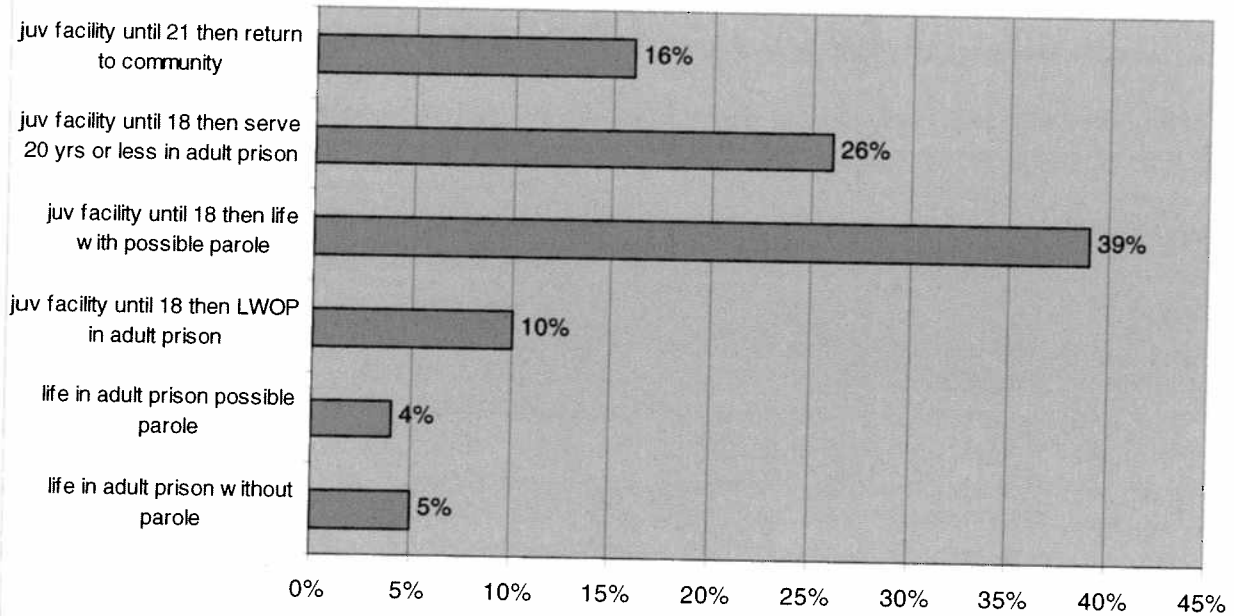
We found that only 26 percent of Michigan residents believe that adolescents between the ages of 12 and 17 years old are as responsible as adults. Furthermore, only 17 percent opposed considering the adolescents' developmental ability to control impulses and understand the consequences of their actions when it comes to sentencing. Similarly, Michigan residents also thought that abuse histories should be taken into account. More specifically, only 31 percent believed that adolescents abused as children should receive the same sentence as an adult for committing a violent offense. Conversely, Michigan residents seemed somewhat divided on whether peer pressure should be considered (44 percent agree, 52 percent disagree, and 4 percent undecided).

Although it is clear that Michigan residents want some distinctions between adult and juvenile offenders, they also feel strongly that youths should be held accountable for their violent crimes. Nearly 75 percent of respondents thought that youths who commit homicide should be initially housed in a juvenile facility and then transferred to an adult facility after age 18 to serve a lengthier sentence, further supporting changes to Michigan's current policy.

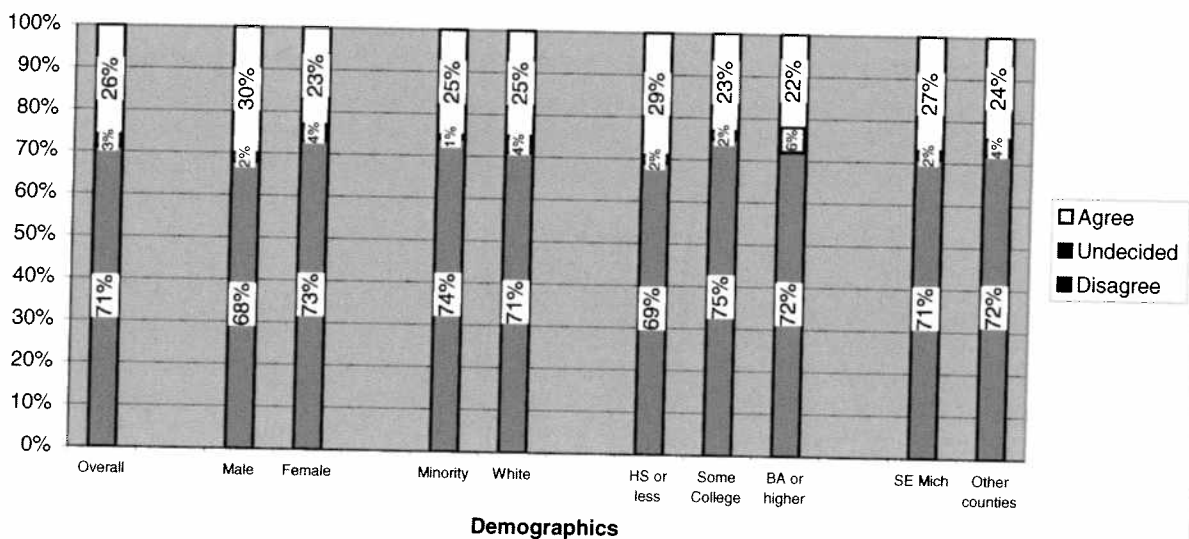


## POLLING DATA FROM ADULTS IN ALL COUNTIES IN MICHIGAN SUGGESTS

Which punishment for adolescent convicted of homicide



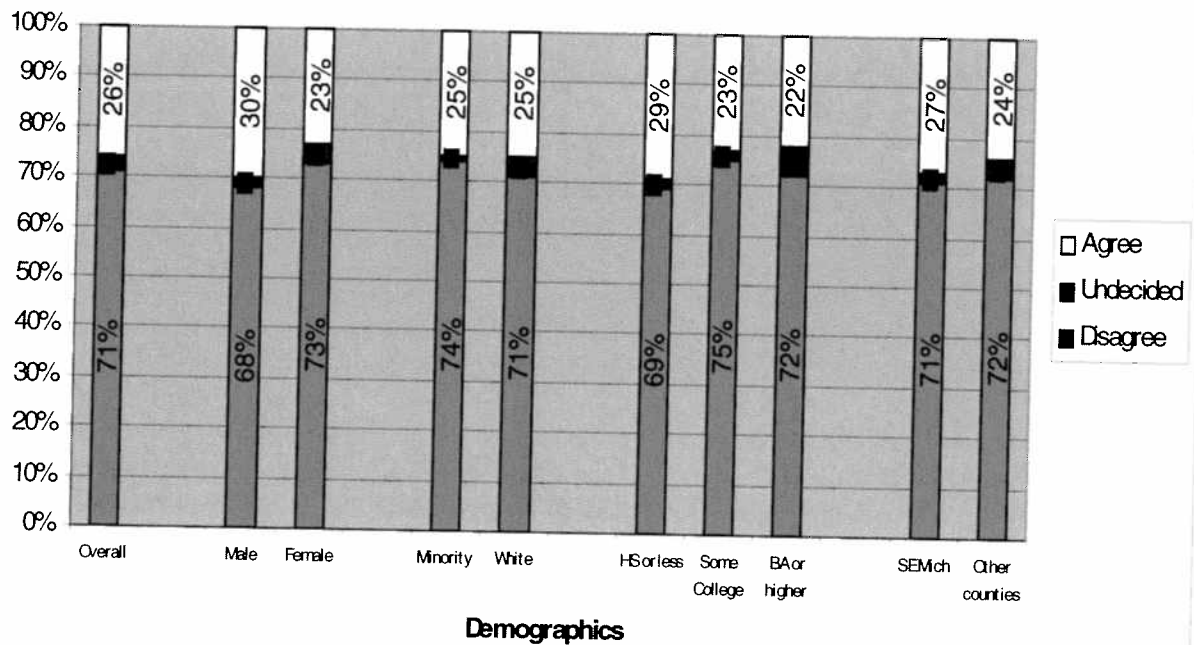
Adolescents between the ages of 12 and 17 are as responsible as adults



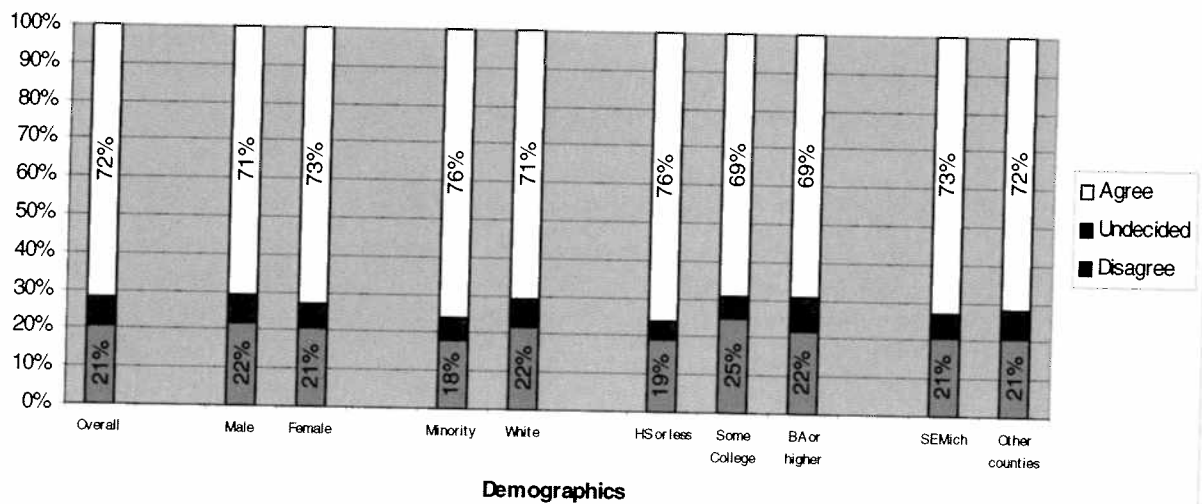


## POLLING DATA FROM ADULTS IN ALL COUNTIES IN MICHIGAN SUGGESTS

**Adolescents between the ages of 12 and 17 are as responsible as adults**



**Adolescents under the age of 18 and who commit violent offenses are strong candidates for rehabilitation**





## AMERICAN PSYCHIATRIC ASSOCIATION

The American Psychiatric Association is a medical specialty society recognized world-wide. Its over 35,000 U.S. and international member physicians work together to ensure humane care and effective treatment for all persons with mental disorder, including mental retardation and substance-related disorders. It is the voice and conscience of modern psychiatry. Its vision is a society that has available, accessible quality psychiatric diagnosis and treatment.

### *Members*

The APA is an organization composed primarily of medical specialists who are qualified, or in the process of becoming qualified, as psychiatrists. The basic eligibility requirement is completion of a residency program in psychiatry accredited by the Residency Review Committee for Psychiatry of the Accreditation Council for Graduate Medical Education (ACGME), the Royal College of Physicians and Surgeons of Canada (RCPS(C)), or the American Osteopathic Association (AOA). Applicants for membership must also hold a valid medical license (with the exception of medical students and residents) and provide one reference who is an APA member.

### *Vision*

The American Psychiatric Association is an organization of psychiatrists working together to ensure humane care and effective treatment for all persons with mental disorders, including mental retardation and substance-related disorders. It is the voice and conscience of modern psychiatry. Its vision is a society that has available, accessible quality psychiatric diagnosis and treatment.

### *Mission*

The mission of the American Psychiatric Association is to:

- \* promote the highest quality care for individuals with mental disorders (including mental retardation and substance-related disorders) and their families;
- \* promote psychiatric education and research;
- \* advance and represent the profession of psychiatry; and
- \* serve the professional needs of its membership.

### *Values*

- \* best standards of clinical practice
- \* highest ethical standards of professional conduct
- \* prevention, access, care and sensitivity for patients and compassion for their families
- \* patient-focused treatment decisions
- \* scientifically established principles of treatment
- \* advocacy for patients
- \* leadership
- \* lifelong professional learning
- \* collegial support
- \* respect for diverse views and pluralism within the field and the association
- \* respect for other health professionals

Source: [http://psych.org/about\\_apa](http://psych.org/about_apa)

## Adjudication of Youths as Adults in the Criminal Justice System

### POSITION STATEMENT

Approved by the Board of Trustees, December 2005  
Approved by the Assembly, November 2005

"Policy documents are approved by the APA Assembly and Board of Trustees...These are ... position statements that define APA official policy on specific subjects..." -- *APA Operations Manual*.

The ostensible goals of transfer, or waiver, to the criminal justice system include: (1) deterrence of youth from committing crimes, (2) reduction in recidivism among youth who are transferred, and (3) improvement of public safety. However, instead of accomplishing their intended goals, waivers have seriously disrupted the lives of youth, and their families, especially those from minority communities. The federal government, in concert with states, should review and develop a strategy to reform current transfer/waiver practices. The general goals of such reform must be: to reduce the number of youth inappropriately transferred to the criminal justice system who could be better served by the juvenile justice system, to provide rehabilitation services that support the development of youth as valued members of society, and to ensure community safety. Reform should specifically include:

- (1) a moratorium on the expansion of eligibility criteria for transfer.
- (2) limiting transfer only to judicial discretion (or sole authority by judge).
- (3) an elimination of transfers for non-violent offenders.
- (4) an elimination of transfer of first-time offenders.
- (5) the development of specialized facilities for transferred youth. Such facilities would include small living units that are secure and safe; programming that addresses the developmental, educational, health, mental health, religious, and other special needs of these youth; and adequately staffed with qualified workers to ensure safety and specialized programming (Council of Juvenile Correctional Administrators, 2005).

The first Juvenile Courts were established approximately one hundred years ago as an effort to develop a more humane system for youth than that of the criminal justice system. This was driven, in large part, by judicial acknowledgement that youth were developmentally quite different from adults with respect to the law. Youthful offenders were considered to be cognitively and morally immature as compared to their adult counterparts and therefore were not deemed as fully responsible as adults. In addition, youth were thought to be more malleable given their stage of development and responsiveness to interventions. This concept of developmental immaturity served as the framework for rehabilitation to prevent future criminal behavior, one of the primary goals of the juvenile court.

The juvenile justice system recognized that those young offenders, who were not amenable to rehabilitation or who were a threat to public safety, would be better dealt with in the criminal justice system. Judges were given the authority during the juvenile court's nascent phase to decide if an offense by a youth would be more appropriate for the adult criminal justice system. Due to an increasing rate of youth violence in the 1980's and early 1990's and the perceived failure by juvenile courts to deter youth violence, state legislatures enacted a broad range of legal mechanisms by which delinquency cases could be transferred or waived to the adult criminal justice system. These legal mechanisms included discretionary waivers (also known as "certification," "bindover," "remand," "transfer," or "decline" proceedings), mandatory waivers, presumptive waivers, statutory exclusions, and "once an adult/always an adult" waivers.

In addition, prosecutors have recently been given more discretionary authority by state legislatures than judges in certain situations and may transfer a case via the mechanism of direct file. Many states do not identify the lowest age at which these waiver mechanisms can be applied. Some states identify ages as young as six and ten for which a child could legally be transferred to the criminal judicial system (Griffin, Torbet, and Szymanski, 1998).

Recent national data from the U.S. Department of Justice (OJJDP, 2003) indicates that approximately 7500 youth are transferred to the criminal court each year by judicial discretion, that approximately 27,000 youth are sent to the criminal justice system by direct file, and that 218,000 youth completely bypass the juvenile justice system via legislation that lowers the age at which an alleged juvenile offender will be dealt with as an adult below age eighteen. More than half of the transfer cases in one year were for nonviolent drug or property offenses, including 43 percent for offenses against persons, 37 percent for property offenses, 14 percent for drug offenses, and 6 percent for public order offenses. Eight percent of youth admitted to state prison before age 18 were released before reaching their eighteenth birthday and 75 percent were released before becoming 22 years old. Ninety-three percent have served their minimum sentence before age 28. Unfortunately, these youth did not receive the rehabilitative support that the juvenile justice system could have provided.

Research has demonstrated that the practice of transfer has not deterred youth in the larger community from offending; that with a few exceptions, i.e. property offenses, recidivism did not decrease among transferred youth, and improved community protection was not evident. One study concluded that the seriousness of re-offending among transferred youth was greater than for non-transfers. The claim that more serious offenders are less likely to respond to rehabilitation efforts is not supported by research (Lipsey and Wilson, 1998). Additionally, youth who are charged and convicted as adults receive felony records, which in many states means, for example, that youth are no longer eligible for federal or state loans for education or housing, further increasing the chance that they will remain involved in the criminal system. Also, convicted youth cannot vote in most jurisdictions which only serves to further marginalize these young people.

Waivers and transfers have been disproportionately applied to minority communities. In a study of eighteen jurisdictions sponsored by a coalition of children's advocates (Juszkewicz, 2000), researchers found that 82% of transfers involved minority youth, with African-Americans accounting for 70% of the transferred youth and Latinos accounting for 23%. In one extreme example of a county in Alabama, African-American youth accounted for 3 out of 10 felony arrests while representing 80 percent of felony cases transferred to adult court African-Americans were overrepresented among nonviolent drug and public order cases sent to the criminal justice system. African-American and Latino youth were more likely than white youth to receive a sentence of adult incarceration as opposed to adult probation or other lesser sentences. The use of private attorneys appeared to increase the likelihood of a transfer back to the juvenile court and lowered conviction rates. However, white youth were twice as likely to be represented by a private attorney and were convicted less frequently than African-American youth.

Recent studies on incarcerated youth indicate that up to 75% of incarcerated youth have a diagnosable mental illness (Cocozza and Skowrya, 2000). A disproportionate number of these youth are victims of child abuse. Procedures and frequency of mental health screening, assessment, and treatment of mental disorders among incarcerated youth vary widely from jurisdiction to jurisdiction; treatment of mental disorders is not mandated in most jurisdictions. There is evidence that suggests that youth housed in adult detention facilities are nearly five times more likely to be sexually assaulted, three times more likely to be assaulted by prison staff, and fifty percent more likely to be assaulted with a weapon than youth in a juvenile facility.

Developmental differences between youth and adults who commit crimes are great. In situations involving split second decisions, youth are on average, less mature than adults in the areas of cognition and emotional development. They tend to be less capable of appreciating the consequences of their behavior tend to follow the direction of their social group, are more readily swayed by their peers, are more impulsive and often demonstrate poor judgment. Many in the criminal justice system are not be mentally competent to be adjudicated ([www.mac-adoldev-juvjustice.org/page22.html](http://www.mac-adoldev-juvjustice.org/page22.html)). As such, criminal justice sanctions are harsh, unreasonable, and fail to consider youth in a developmental context. These observations apply specifically to minors who are being adjudicated in the criminal justice system, and should not be construed to apply to minors' cognition and behavior in all other situations.

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